693

SUPREME COURT OF THE UNITED STATES.

No. ~~250.~~ 129.

THE UNITED STATES, APPELLANTS,

v.

CAYETANO JUAREZ.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

693-

SUPREME COURT OF THE UNITED STATES.

No. 250.

THE UNITED STATES, APPELLANTS,

v.

CAYETANO JUAREZ.

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CAYETANO JUAREZ, claimant,
vs.
THE UNITED STATES, defendants. } For the place named "Yokaya."

2

3 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered that on this eleventh day of September, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Cayetano Juarez, for the place named "Yokaya," was presented, and ordered to be filed and docketed with No. 335, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *December* 20, 1852.

In case No. 335, Cayetano Juarez, for the place name "Yokaya," the counsel for the claimant presented a supplemental petition; ordered to be filed with the papers in the case.

(Vide page 17 of this transcript.)

SAN FRANCISCO, *February* 11*th*, 1853.

4 In the same case, the deposition of M. G. Vallejo, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with document marked H. J. T. No. 1, annexed thereto, was filed.

(Vide page 4 of this transcript.)

SAN FRANCISCO, *Sept.* 28, 1853.

Case No. 335, on motion of the counsel for the claimant, ordered to the foot of the docket.

SAN FRANCISCO, *March* 21, 1854.

In the same case, on motion of the U. S. law agent, in conformity to the notice served upon him, the names of Halleck, Peachy and Billings were ordered to be withdrawn as counsel for the claimant.

SAN FRANCISCO, *September* 26, 1854.

Case No. 335, on motion of the counsel for the claimant, with the consent of the U. S. law agent, was ordered to be placed at the foot of the 2d class cases on the trial docket.

SAN FRANCISCO, *Oct.* 31, 1854.

Case No. 335 was submitted under the rule of March 21st, 1854.

5 SAN FRANCISCO, *November* 7, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim.

(Vide page 25 of this transcript.)

And the following order was made, to wit:

(Vide page 27 of this transcript.)

Petition.

To the honorable commissioners to settle private land claims in California:

The petitioner, Cayetano Juarez, respectfully represents: That on the 24th day of May, A. D. 1845, Pio Pico, governor of California, by virtue of authority in him vested, granted to the petitioner the tract of land called "Yokaya," in the present county of Mendocino, containing eight sitios de ganado mayor, which grant was duly approved on the 3d day of June, A. D. 1846, all of which was shown by the original espediente, a certified copy of which, in its present state, though somewhat mutilated, is submitted herewith, marked "A," with a translation marked "B." The petitioner also submits herewith a copy of the original title marked "C," with a translation marked "D."

6 And the petitioner further represents that having received the possession in due form, he has been for more than seven years, and now is, in the quiet and undisputed occupation of said land.

That he knows of no conflicting claim.

That he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the records and minutes in the archives of the former government, and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the commissioners to confirm to him the aforesaid tract of land.

By his att'ys, HALLECK, PEACHY & BILLINGS.

Filed in office Sept. 11, 1852.
(Signed) GEO. FISHER, *Sec'y.*

7 *Dep. of M. G. Vallejo.*

SAN FRANCISCO, *Feb'y* 11, 1853.

On this day, before Com'r Harry J. Thornton, came M. G. Vallejo, a witness in behalf of the claimant, Cayetano Juarez, petition No. 335, and was duly sworn, his evidence being interpreted by the secretary.

In answer to questions by counsel for claimant the witness testified as follows: My name is Mariano G. Vallejo; my age is 45 years; I have lived in California all my life.

I know the rancho called "Yokaya," granted to Cayetano Juarez in 1845. Juarez occupied this land before the grant was made, and continued to occupy it till after the Americans took possession of the country. He had a house and cattle on it. I sold it for him a short time ago to Capt. E. Knight. He made a deed of it to me, and I deeded it to Captain Knight.

I know the handwriting of Pio Pico and Juan Bandini; their signatures to the paper marked Exhibit No. 1, and filed with this deposition, are genuine.

M. G. VALLEJO.

U. S. law agent present.

Sworn to and subscribed before me this 11th Feb'y, 1853.

HARRY J. THORNTON, *Com'r.*

8 Filed in office Feb'y 11, 1853.

(Signed) GEO. FISHER, *Sec'y.*

1845.—1.—S. D. K.

[SEAL.]

Espediente promovido por el c'o Cayetano Juarez en pretencion del terreno conocido con el nombre de Yokaya.

Espediente.

452.

ANG's, *y Mayo* 24 *de* 1845. Se le concede al interesado lo qe. pretende y al efecto librese el titulo correspondiente. El gob'or del departamento asi lo decretó mandó y firmó. PIO PICO.

E. S: Cayetano Juarez, ciudadano Mexicano, y establecido en la frontera de Sonoma de la Alta California, ante S. E. con el debido respeto me presento y digo; que tengo concedido por el govierno departamental dos sitios de ganado mayor, hace ocho años, y como mis pocos intereses crecen y el terreno qe. ocupan no les bantan, solicito E. S. Se sirva conceder me ocho sitios, mas ó menos, de ganado mayor en el terreno conocido por Yokaya al N. O. E. de Sonoma á distancia de 30 leguas, colin-
9 dante con el ciudadano Fernando Feliz al S y con las tribus gentiles por los demas rumbos P. T. A. V. E. Suplico se sirva acceder á mi solicitud atendiendo señor á mi crecida familia de cuya concesion recibiré gracia.

Sonoma, Abril 8, de 1845.

CAYETANO JUAREZ.

Admitiendo este en papel comun por no haver en este lugar del sello qe. corresponde.

3.—S. D. K.

10 (Here follows diseño.)

11 4.—S. D. K.

Mar'o G. Vallejo, coron'l de caball'a, certifico que el terreno conocido con el nombre de Yokayas, en las inmediaciones del *Cabo* Mendocino y treinta leguas distante de este lugar, es baldio y no pertenece á propiedad particular dado por el gob'o y para que conste donde convenga doy el presente á pedimento del ex-alcalde 2°, c'no Cayetano Juarez, en Sonoma á 8 de Abril de 1845.

M. G. VALLEJO.

5.—S. D. K.

Queda tomadas razon de este titulo en el libro respectivo.

ANGELES, *Mayo* 8 *de* 1846.

Dado cuenta en sesion de hoy con este espediente á la ex'ma asamblea departamental se mandó pasar á la comision de terrenos valdios.

AGUSTIN OLVERA.

SENOR: La comision de terrenos valdios ha visto con detenim'to el presente esped'te promovido qe. el C. Cayetano Juarez relativo al parage Yokaya q. le fue concedido p'r el gob'o superior de
12 este departam'to con con arreglo á las leyes de la materia, en este concepto pone (6.—S. D. K.) pone á la deliveracion de V. E. la proposicion siguiente.

Se aprueva la concecion hecha al ciud'o Cayetano Juarez del parage Yokaya sercanias del Cabo Mendocino jurisd'n de Sonoma en atenca de ocho sitios de ganado mayor segun titulo librado con f'ha 24 de Mayo del año p'o p'o conforme á la ley de 18 de Ag'to de 1824 y art. 5° del reglamento de 21 de N'bre de 1828.

Sala de com'r en la ciudad de los Angeles, Mayo 26 de 1846.

S. ARGUELLO.

ANGELES, 3 *de Junio de* 1846.

En sesion de este dias aprobó la ex'ma asamblea departamental la proposicion nel dictamen anterior.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States
13 for the State of California, and as such, now having in my office a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the six preceding and hereunto annexed pages of tracing paper, numbered f om one to six inclusive, exhibit true and accurate copies of certain documents now on file and forming part of the said archives in my office.

In testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of office) at [SEAL.] the city of San Francisco, this 7th day of February, A. D. 1852.

SAM'L D. KING, *Sur. Gen'l Cal.*

Filed in office Sept. 11th, 1852,

GEO. FISHER, *Sec'y.*

14 "*B.*"—*Translation of Espediente.*

ANGELES, *May* 28, 1845.
That which the person interested requests is granted to him, and for that purpose let the corresponding title.
The government of the departm't thus decreed, ordered, and signed.
PIO PICO.

MOST EXCELLENT SIR: I, Cayetano Juarez, a Mexican citizen, and established in the frontier of Sonoma, of the Alta California, before your excellency with due respect appear and say that I have granted me by the departmental assembly two square leagues eight years ago, and as my small property increases and the land which I occupy is not sufficient for them, I request your excellency to have the goodness to grant me eight square leagues, more or less, in the land known as "Yokaya," to the northwest of Sonoma, distant 30 leagues, bounded by citizen Fernando Feliz on the south side, and by the unchristianized Indians on the other sides.

Wherefore I pray your excellency to have the goodness to accede to my request, attending, sir, to my large family, by which grant I will receive favor.

Sonoma, April 8, 1845.

CAYETANO JUAREZ.

15 Admitting this on common paper, there being none of the corresponding stamp in this place.

Mariano G. Vallejo, colonel of cavalry, I certify that the land known by the name of "Yokaya," in the neighborhood of Cape Mendocino, and thirty leagues distant from this place, it is vacant, and does not belong to any private ownership given by the government; and that it may appear where it may be required, I give the present at the request of the former 2d alcalde, Cayetana Juarez, in Sonoma, on the 8th of April, 1845.

(Signed) M. G. VALLEJO.

Note has been made of this title in the respective book.

ANGELES, *May* 8, 1846.

This espediente was reported in session of this day to the most excellent departmental assembly, and it was ordered to pass to the committee on vacant lands.

(Signed) PIO PICO, *President.*
(Signed) AUGUSTIN OLVERA, *D. S.*

16 SEÑOR: The committee on vacant lands has carefully examined the present espediente, moved by citizen Cayetano Juarez, relative to the place of "Yokaya," which was granted to him by the superior departmental government in conformity with the laws on the matter in this view, places at the deliberation of your excellency the following proposition.

Approved the grant made to citizen Cayetano Juarez of the place "Yokaya," near Cape Mendocino, jurisdiction of Sonoma, in extent eight square leagues, according to the title issued under date 24th of May of last year, in conformity with the law of August 18th, 1824, and article 5 of the regulation of November 21, 1828.

Hall of the committee in the city of Los Angeles, May 26, 1846.
(Signed) S. ARGUELLO.

ANGELES, *June 3rd*, 1846.

In session of this day the most excellent departmental assembly approved the proposition of the foregoing report.

17 Filed in office Sept. 11, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Grant.—Doc. H. I. T. No. 1.

Sello tercero—un peso.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[SEAL.] Pio Pico, vocal mas antiguo de la honorable asamblea del departamento de California y encargado del gobierno del mismo por el ministerio de la ley.

Por cuanto D. Cayetano Juarez, Mejicano por nacimiento ha pretendido para su beneficio personal y el de su familias el parage conocido con el nombre con el nombre de Yokaya, al N. O. de Sonoma, colindante al S. con el ciud'o Fernando Feliz, y por los demas rumbos con las tribus gentiles. Practicadas previamente las diligen-
18 cias y averiguaciones concernientes segun le dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas á nombre de la nacion Mejicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras sugetandose á la aprobacion de la ex'ma junta departamental y bajo las condiciones siguientes:

1a. Podra cercarlo sin perjudicar las travecias, caminos, y servidumbres; lo disfrutará libre y esclusivamente destinandolo al uso ql. mas le acomode.

2a. Solicitará del juez respectivo que le de la posecion juridica en virtud de este despacho demarcando los linderos poniendo sus mohomeras y algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de que se le hace donacion es de ocho sitios de ganado mayor segun el diseño que acompaña el interesado.

El juez que diere la posecion lo hará medir conforme á ordenanza dejando lo sobrante que resulte á la nacion para los usos convenientes.

19 En consecuencia mando que teniendose por firme y valedero el presente titulo se tome razon en el libro que corresponde y se entreguo al interesado para su resguardo y demas fines.

Dado en la ciudad de los Angeles, capital del departamento de Californias, 24 de Mayo de 1845.

PIO PICO,
JUAN BANDINI.

Se tomó razon.
BANDINI.

Filed in office Feb'y 11, 1853.

GEO. FISHER, *Sec'y.*

"D."—Translation of title.

Stamp third—one dollar.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias for the years 1844 and 1845.

(S'g'd) PABLO DE LA GUERRA.
(S'g'd) MICHELTORENA.

[SEAL.] Pio Pico, senior vocal of the honorable depart-
20 mental assembly of Californias, and ex officio charged with the government of the same:

Whereas, Don Cayetano Juarez, a Mexican by birth, has, for his own personal benefit and that of his family, asked for the place known by the name of Yokaya, to the northwest of Sonoma, bounded on the south by citizen Fernando Feliz, and on the other side by the unchristianized tribes, the proper measures and examinations being previously made, as required by laws and regulations, using the powers conferred on me in the name of the Mexican nation, I have granted him the aforesaid land, declaring to him the ownership of it by the present letters, subject to the approval of the most excellent departmental assembly, and under the following conditions:

1st. He may enclose it without prejudice to the crossings, roads, and servitudes; he may enjoy it freely and exclusively, making such use of it as may best suit him.

2nd. He will request the proper magistrate to give him juridical possession in virtue of this title, marking out the boundaries, placing the bounds, and some fruit trees or wild ones of some utility.

21 3rd. The land granted in donation is of eight square leagues, according to the map which the person interested transmits.

The magistrate who may give the possession will cause it to be measured in conformity with ordinance, leaving that which may result surplus to the nation for the convenient uses.

In conformity I order that the present title being held as firm and valid, note be made of it in the proper book, and that it be delivered to the person interested for his security and other purposes.

Given in the city of Los Angeles, capital of the department of Californias, on the 24th of May, 1845.

(Signed) PIO PICO.
(Signed) JUAN BANDINI.

Note has been made.
(Signed) BANDINI.

Filed in office Sept. 11, 1852.
(Signed) GEO. FISHER, *Sec'y.*

22 *Supplemental petition.*

To the honorable commissioners to settle private land claims in California:

In the matter of the petition of Cayetano Juarez, praying for the confirmation of the title to the rancho called "Yokaya," situate in the present county of Mendocino, in this State, which petition is on file with the honorable board of commissioners, numbered 335.

The petitioner in the foregoing petition, and E. Knight, respectfully show in this their supplementary petition—

That since making the said original petition the said Cayetano Juarez has sold the said Yokaya rancho, and conveyed the same to M. G. Vallejo, who has sold and conveyed the same to the petitioner, E. Knight, as will appear by the original deed of sale, dated August 16, 1852, from the said Juarez to said Vallejo, hereunto annexed and marked Exhibit "No. 1," with a translation marked "No. 2," and by the original deed of sale, from M. G. Vallejo to E. Knight, dated August 16th, 1852, annexed hereto and marked "No. 3."

They therefore pray that the said E. Knight may be substi-
23 tuted for said Cayetano Juarez, and that the confirmation of title to the said tract of land be made to said E. Knight, in his own name and for his sole use.

By their att'ys,

HALLECK, PEACHY & BILLINGS.

Filed in office Dec'r 20th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

No. 2.—*Conveyance*

In the town of Napa, of the State of California, county of Napa, on the sixteenth day of the month of August, eighteen hundred and fifty-two, Don Cayetano Juarez, with the agreement and consent of his wife, said that for himself, and in the name of his heirs and successors, and of whoever might have title, voice and claim, he sells and gives in real sale and perpetual alienation for ever to Don

Mariano G. Vallejo, (of the county of Sonoma, of the State of California,) and to his the rancho known by the name of Yokaya, in quantity eight square leagues, in conformity with the titles
24 and the boundaries expressed in the title issued by the government of the department of Upper California, dated May 24th, eighteen hundred and forty-five, for the sum of twelve thousand dollars, ($12,000,) which he has received in current money in his own hand, and that therefore he sells, transfers and grants it to said Sr. Don Mariano G. Vallejo, with all his rights of entry and exit and appurtenances, that he may dispose of said rancho in the manner which may best suit him and is most convenient, making of it such use as may best suit his interest; and I also protest that it is free from mortgage and every other incumbrance. It is also understood that as well the taxes as the costs which may accrue to him for the purpose of obtaining the confirmation of the titles before the commissioners of the government of the United States, will be paid by said Senor Vallejo, and that I (Don Cayetano Juarez) shall at no time be responsible in any manner, direct or indirect, for the present sale, and for the purposes which it may serve I sign this present on the day, month and year aforesaid.

25 (Signed) CAYETANO JUAREZ. [L. S.]
(Signed) MARIA DE JESUS DE JUAREZ. [L. S.]

Witnesses:
(S'g'd) W. W. CULVER.

STATE OF CALIFORNIA,
Napa County:

Before me, William W. Culver, notary public in and for said county, personally came Cayetano Juarez and Maria de Jesus Juarez, wife of the said Cayetano Juarez, known to me to be the identical persons who executed the foregoing instrument as parties thereto, and acknowledged that they voluntarily executed the same for the purposes therein expressed. And the said Maria de Jesus, wife of the said Cayetano, being by me examined apart from and without the hearing of her said husband, and the contents of said instrument being by me made known to her, she then acknowledged that she executed the same freely and voluntarily, without fear, coercion, or undue influence of her said husband, for the uses and purposes therein expressed, and that she is still satisfied therewith.

(S'g'd) WILLIAM W. CULVER. [SEAL.]

26 Given under my hand and private seal, having not procured a notarial seal, this August 16, 1852.

(S'g'd) WILLIAM W. CULVER.

The insertion of the date to this acknowledgment was made by me at the time of drafting the acknowledgment.

Filed in office Dec. 20, 1852.

(Signed) GEO. FISHER, *Sec'y.*

No. 3.

Know all men by these presents, that I, Mariano G. Vallejo, of the city and county of Sonama, State of California, in consideration of the sum of eight thousand dollars in hand, paid to me by E. Knight of San Francisco county, State of California, the receipt of which I hereby acknowledge, and for the sum of two thousand dollars secured to be paid on the within described premises, the same being hereby pledged, therefor, on the final confirmation of the original claim or grant to the rancho Yokaya, hereinafter conveyed, and for the further sum of one thousand dollars, secured to be paid upon the within described premises, pledged as aforesaid, one year after the
27 final confirmation, and for the further sum of one thousand dollars, secured to be paid on the within described premises, pledged as aforesaid, two years after the final confirmation, do hereby bargain, sell and convey unto the said E. Knight, his heirs and assigns forever, all my right, title, interest, claim and demand in law and equity, in and to a certain piece or parcel of land partly situated in said county of Mendocino, and known as the rancho de Yokaya, containing eight leagues of land, more or less, conveyed by Cayetano Juarez and wife to me by deed, dated August sixteenth, A. D. eighteen hundred and fifty-two, and recorded in Sonoma city and county.

In witness whereof, I have hereunto signed my name and affixed my seal, this the sixteenth day of August, in the year of our Lord one thousand eight hundred and fifty-two.

M. G. VALLEJO. [SEAL.]

Witness: JOHN B. FRISBEE.

STATE OF CALIFORNIA,
Sonoma County:

28 On this ninth day of September, eighteen hundred and fifty-two, personally appeared before me the above named Mariano G. Vallejo, to me known to be the person named and described in the foregoing instrument, and who executed the same and acknowledged that the same was executed as his own free act and deed for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and private seal, having no official seal, this ninth day of September, A. D. 1852.

[SEAL.] JOHN B. FRISBEE,
Notary Public.

Filed in office Dec. 20th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Notice of withdrawal.—No. 335.

Claim of Cayetano Juarez to "Yokaya."

To the U. S. law agent:

Please take notice that we hereby withdraw our names as
29 atty's in the above entitled claim.

HALLECK, PEACHY & BILLINGS.

San Francisco, March 14, 1854.

Filed in office March 20, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Opinion by Com'r Felch.

CAYETANO JUAREZ *vs.* THE UNITED STATES. } For the place called Yokaya, in Mendocino county, containing eight square leagues of land.

The claim of the petitioner is founded on a grant made to him by Governor Pio Pico, which is given in evidence duly proved, and bears date May 24, 1845.

The approval of the departmental assembly appears to have been given, but no judicial measurement was obtained. Without the latter this grant could not be made to apply to any defined portion of land which could be confirmed to the petitioner.

The locality where the eight leagues granted were to be
30 measured off to the party is itself without descriptive boundaries, three of its sides being described as bounded "by the unchristianized tribes," with nothing to designate the angles or lines, and with no monument to fix any of its limits.

It is difficult to conceive of any proof which could supply the place in such a case of a regular judicial measurement, and in the case before us no substitute is offered.

The claim must be rejected. Rejected.

Filed in office Nov. 7, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Decree.

CAYETANO JUAREZ *vs.* THE UNITED STATES. }

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is not valid, and it is therefore decreed that this application for a confirmation thereof be denied.

ALPHEUS FELCH,
31 R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office Nov. 7, 1854.
(Signed) GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board, and that the land hereby adjudicated is situated in the northern district of Cal., it is hereby ordered that two transcripts of the proceedings and of the papers and evidence upon which the same are founded be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the U. S. district court for the northern district of Cal., and the other be transmitted to the Att'y Gen'l of the U. S.

Secretary's certificate.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners
32 to ascertain and settle the private land claims in the State of California, do hereby certify the foreging twenty-seven pages, numbered from 1 to 27, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 335 on the docket of the said board, wherein Cayetano Juarez is the claimant against the United States for the place known by the name of "Yokaya."

In testimony whereof, I hereunto set my hand and affix my private
[SEAL.] seal (not having a seal of office) at San Francisco, California, this twenty-fifth day of May, A. D. 1855, and of the Independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

Endorsed: Filed June 2d, 1855.

JOHN A. MUNROE, *Clerk.*

33 *Notice of intention to prosecute appeal.*

In the district court of the United States for the northern district of California.

THE UNITED STATES, appellees,
v.
CAYETANO JUAREZ, et al., appellants.
} No. 217 on the docket of the court.—No. 335 on the docket of the U. S. land commission, &c.

To S. W. Inge, Esq., U. S. District Attorney:

You are hereby notified, in pursuance of the act of Congress in such case made and provided, of the intention of the claimant in the above case to prosecute his appeal from the decision of the United States land commission, &c., rejecting his claim in the above case.

JOHN A. WILLS,
Attorney for Claimant.

December 1, 1855.

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Endorsed :

DEC. 1, 1855.—Due service of a copy of the within notice of appeal is hereby accepted.

S. W. INGE.

Filed Dec. 1, 1855.

JOHN A. MONROE, *Clerk*,
34 By W. H. CHEVERS, *Deputy*.

Petition for review.

In the district court of the United States for the northern district of California.

THE UNITED STATES, appellees, *v.* CAYETANO JUAREZ, et al., appellants. } No. 217 of docket of said court.

To the honorable Ogden Hoffman, jr., judge of the district court of the United States for the northern district of California :

The petition of Cayetano Juarez, a citizen of California, and of C. Patterson, administrator of the estate of E. Knight, dec'd, also citizen of said State, on behalf of the assignee of the claim in this case respectfully represents : That under the provisions of the act of Congress of March 3rd, 1851, he, the said Cayetano Juarez,
35 presented a petition to the commissioners appointed under the said act to examine claims to land in California, praying for the confirmation of his claim to the tract of land therein described called "Yokaya," containing eight square leagues, situated in the present county of Mendocino, California, under a grant from Pio Pico, governor of California, dated May 24th, 1845, and accompanied it by evidence of his title, and to which for more full and particular description they beg leave to refer.

That the said claim, being designated as No. 335 on the docket of the said commissioners, was filed Sept. 11, 1852. That subsequently thereto, to wit, Dec. 20, 1852, the said Cayetano Juarez and E. Knight filed a supplementary petition, setting forth a transfer of his interest in the said claim since the filing of his petition by the said Cayetano Juarez to M. G. Vallejo, and a transfer of the same by the said Vallejo to the said E. Knight, and asking that he, the said Knight, might be substituted for the said Cayetano Juarez, and that the confirmation of the said tract of land should be made to the said Knight. That, afterwards, to wit, on the day
36 of , A. D. 185 , the said E. Knight died, and that, thereupon, the said Patterson was appointed administrator of the estate of the said decedent, all of which will more fully appear by the said supplementary petition and documentary evidence to be adduced hereafter in this case.

That, on the 7th day of November, 1854, the said claim was rejected by the said board of land commissioners. That the said land is situated within the limits of the northern district of California

and within the jurisdiction of this court. That, on the 2nd day of June, 1855, a transcript of the proceedings and decision of the commissioners in the said case was filed in the office of the clerk of the court of the said northern district of California; and that, on the 1st day of December, 1855, a notice was filed with the said clerk that your petitioners appealed from such decision.

Your petitioners therefore pray for a rehearing of the case upon this appeal, that the said decision of the commissioners may be reversed and annulled, and that the court will make such
37 decree and order as may be necessary and proper to recognize, confirm, and declare valid the title and claim to the premises mentioned and referred to in the petition of the said Cayetano Juarez, and the evidences of the claim submitted and to be submitted.

And your petitioners will ever pray, &c., &c.,

CAYETANO JUAREZ, and
C. PATTERSON,
Adm'r of estate of E. Knight, dec'd.
By JOHN A. WILLS,
Attorney for Claimants.

Endorsed: Dec. 1st, 1855. Due service of a copy of the within petition is hereby accepted.

A. GLASSELL,
Ass't U. S. Att'y.

Filed Dec'r 4th, A. D. 1855.

JOHN A. MONROE, *Clerk.*

38 *Answer.*

In the district court of the United States for the northern dist. of Cal'a.

THE UNITED STATES *ads.* CAYETANO JUAREZ. } D. C. 217. L. C. 335.

SAN FRANCISCO, *Feb'y* 12, 1857.

The United States, by their attorney, deny the validity of the title set out in the petition of the appellant, and pray that the decision of the U. S. land commission be affirmed, and that the said title be decreed invalid.

WM. BLANDING,
U. S. Att'y.

Endorsed: Filed Feb'y 12, 1857.

W. H. CHEVERS, *Deputy.*

39 *Order opening cause for testimony.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the

city of San Francisco, on Wednesday, the sixteenth day of February, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES *vs.* CAYETANO JUAREZ. } No. 217.

On motion of Judge Hastings, esq., counsel for the claimant, the dist. att'y being present, and consenting thereto, ordered that this cause be, and the same is hereby, restored to the trial calendar, and either party are hereby allowed the privilege of taking further testimony herein.

Endorsed: Filed February 16, 1859.

W. H. CHEVERS, *Clerk.*

40 *Dep. of Jacob P. Leese on behalf of claim't.*

SAN FRANCISCO, *May* 26, 1859.

United States district court, northern district of California.

THE UNITED STATES *vs.* CAYETANO JUAREZ. }

On this day, before me, Geo. Pen Johnston, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Jacob P. Leese, a witness produced on behalf of the claimant in case No. 217, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 335 on the docket of the said board of commissioners, and was duly sworn, and testified as follows—said deposition being taken by consent:

Present: John Curry, esq'r., att'y for claimant, and P. Della Torre, esq'r., U. S. att'y.

Questions by John Curry, esq., att'y for cl't.

Question 1. What is your age; and where do you reside; and how long have you resided in California?

41 Answer. I am my fiftieth year of age; I reside in Monterey, California; and have resided in California since the year A. D. 1833.

Question 2. Did you know Pio Pico? and if so, state whether or not he held an official position under the former government of California: and what position, if any; and at what time did he hold such position?

Answer. I did. He, Pio Pico, held the office of governor of the Californias from very early in the year A. D. 1845 until the Americans took possession of California in 1846. Said Pico held the office of governor by virtue of his being the speaker or senior vocal of the departmental assembly of California until in the fall of 1845, when he

was confirmed as governor of the department of California by the Mexican government.

Question 3rd. Have you seen said Pio Pico write, and are you acquainted with his handwriting?

Answer. I have seen him write, and am acquainted with his handwriting.

42 Question 4th. State whether or not the name of said Pico, signed to the document in this case, purporting to be a titulo or grant, made by said Pio Pico as senior vocal, to Cayetano Juarez, bearing date May 24, 1845, for the place called Tokaya, or Yokaya, is said Pio Pico's genuine signature?

Answer. It is, according to my opinion and belief.

Question 5th. Did you know Juan Bandini? and if so, state whether he held any official position under the government of California while said Pio Pico was acting as governor; and what position.

Answer. I knew Juan Bandini. He held the position of secretary, or secretary of state, under the government of California while Pio Pico was governor in 1845; a part of the time he was such secretary.

Question 6th. Have you seen said Bandini write, and are you acquainted with his handwriting?

Answer. I have seen him write, and am acquainted with his handwriting.

43 Question 7th. State whether or not said Bandini's name signed to said document mentioned in question 4th above is his genuine signature?

Answer. Such signature is said Bandini's, according to my opinion and belief, and is genuine.

Question 8th. Did you know Cayetano Juarez in 1845; and if so, who was he?

Answer. I knew said Juarez; he was a native of California.

Question 9th. Do you know anything respecting the grant made on behalf of the Mexican nation to said Juarez in 1845 of the place called Yokaya?

Answer. I very well remember hearing at the time—in 1845—that such a grant was made to said Cayetano Juarez.

Cross-examination by U. S. district attorney.

Question 1st. Do you remember the dates when Bandini entered upon the office of secretary, and when he left the office?

44 Answer. In the spring of 1845 I was alcalde of the jurisdiction of Sonoma, and received an official communication from said Bandini, as secretary, to hold an election on the first of June, 1845, at Sonoma, for the office of alcalde for that year. I do not know the respective dates above mentioned otherwise than is above stated.

J. P. LEESE.

Sworn to and subscribed before me this 26th day of May, A. D. 1859.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed May 26th, 1859.

W. H. CHEVERS, *Clerk.*

Certified abstract of records, &c.

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En 24 de Mayo de 1845, se le concedio á Cayetano Juarez el terreno conocido con el nombre de Tokayâs.

En el de Don Cayetano Juarez se aprueba la consesion hecha al ciudadano Cayetano Juarez del parage Tokaya sercanias del cabo Mendocino, jurisdiccion de Sonoma, en estencion de ocho sitios
45 de ganado mayor segun titulo librado con fecha 24 de Mayo, del año po. pa. conforme á la ley de 18 de Agosto de 1824 y articulo 5o del reglamento de 21 de Noviembre de 1828.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and, as such, having in my office, and in my charge and custody, the papers of the late board of commissioners to ascertain and settle the private land claims in California, and also a portion of the archives of the former Spanish and Mexican governments in California, by virtue of the power vested in me by law, do hereby certify that the preceding and hereunto annexed page, numbered one, exhibits a true, full, and correct copy of extracts from the Toma de Razon for 1844 and 1845, and proceedings of the departmental assembly on the 3rd day of June, 1846, as the same appear of record, and on file among said archives.

In testimony whereof, I have hereunto signed my name
[SEAL.] officially, and caused my seal of office to be affixed, at the city of San Francisco, this 20th day of October, 1858.

46 J. W. MANDEVILLE,
U. S. Surveyor General for California.

Examined and found correct.

JOHN W. SHORE,
Keeper of Archives.

Endorsed: Filed May 26th, 1859.

W. H. CHEVERS, *Clerk.*

Dep. of James Tobin.

United States district court, northern district of California.

THE UNITED STATES
vs.
CAYETANO JUAREZ.

SAN FRANCISCO, *Feb'y* 16, 1859.

On this day, before me, W. H. Chevers, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came James Tobin, a witness produced on

behalf of the claimants in case No. 217, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 335 on the docket of
47 the said board of commissioners, and was duly sworn and testified as follows:

Present: S. C. Hastings, of counsel for claimant, and P. Della Torre, U. S. dis't att'y.

Questions by claimant's counsel.

What is your name, age, and place of residence?

Answer. James Tobin; am 39 years, and reside in the city of San Francisco; am in the employment of the Indian department, and have been for more than a year; I came to this country in 1849, and have resided here ever since.

Question 2nd. State whether or not you are well acquainted with the geography and topography of the northern portion of this State.

Answer. I am, from San Francisco to the line of Humboldt country, and from the Sacramento river to the ocean.

Question 3rd. Do you know a valley called the "Yokaya" valley, and if yea, what do you know about it, and where is it situated?

Answer. I do. I have known it for several years. It is situated to the northward of the town of Sonoma, about eighty-six miles.
48 The southern boundary of the valley is the northern boundary of the rancho of Fernando Feliz. It extends then in a northerly direction about twenty miles. The first southern eight miles is about two miles wide. The next five miles is about one mile wide. The next seven miles is about two miles wide. On the east, north, and west this valley is bounded by mountains, Russian river coursing through the length of it. When I first knew this valley, all that is included in these boundaries was called the "Yocaya" valley, including what is now called "Redwood," and "Capella" or "Calpella." When I first became acquainted with the valley I only knew of two houses there.

Question 4th. Look at the map, or diseño contained in the transcript in this case, and state whether upon inspection you can identify it as the map of the country in controversy.

Answer. I can; it is not a perfect map, but enough so to allow me to identify the land about which I have been testifying. I have no doubt that it is intended to be a map of Yocaya valley.
49 Cross-examination waived by U. S. att'y.

JAS. TOBIN.

Sworn to and subscribed, February 16th, 1859, before me,

W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed May 26th, 1859.

W. H. CHEVERS, *Clerk.*

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Dep. of Cyrus Alexander.

United States district court, northern district of California.

THE UNITED STATES
vs.
CAYETANO JUAREZ.

SAN FRANCISCO, *Aug.* 5, 1859.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Cyrus Alexander, a witness produced on behalf of the claimant in case No. 217, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 335 on the docket of
50 the said board of commissioners, and was duly sworn and testified as follows:

Present: Tully R. Wise, acting U. S. att'y; S. C. Hastings, for cl'm't.

Questions by att'y for claimant.

Ques. 1. Your name, age, place of nativity, and how long have you resided in California?

Ans. 1. Cyrus Alexander; I am 33 years of age; I was born in the State of Pennsylvania; I have resided in California since 1853.

Ques. 2. Are you acquainted with Cayetano Juarez; if so, how long have you known him?

Ans. 2. I am acquainted with him, and have known him since 1841.

Ques. 3. State what you know of the tract called Ukiah or Ukiah valley, and where it is situated.

Ans. 3. I have known from hearsay ever since 1843 that there was a tract of country called Ukiah. It is situated on Russian river, the northern end up above what is called the cañon.

51 (U. S. att'y objects to above answer as hearsay evidence.)

Ques. 4. State what you know of a grant to any person of said Ukiah valley?

Ans. 4. I know it was granted to this man Cayetano Juarez in 1845.

Ques. 5. State what you know of the occupancy of the tract by Cayetano Juarez, the grantee?

Ans. 5. I know that he had cattle on the tract in 1845.

Cross-examination.

Ques. 1. How do you know that this tract was granted to Cayetano Juarez in 1845?

Ans. 1. I know that that was the talk, that was the general rumor in the country. I knew only by hearsay.

Ques. 2. How do you know he had cattle on the tract in 1845?

Ans. 2. They passed my house, and said they were going to drive them to that tract.

Quest. 3. Where is your house?

52 Ans. 3. On Russian river, on what is called Fitch's grant, between Ukiah and Sonoma.

Quest. 4. How far is your house from Ukiah valley?

Ans. 4. About 30 or 35 miles.

Ques. 5. Did you ever personally see any cattle on said tract of land?

Ans. 5. No sir. I have never been on the tract myself.

CYRUS ALEXANDER.

Subscribed and sworn to before me this 5th August, A. D. 1859.

CUTLER McALLISTER,

[SEAL.] *U. S. Com'r.*

Endorsed: Filed Aug. 5, 1859.

W. H. CHEVERS, *Clerk.*

53 *Dep. of Julio Carillo.*

District court of the United States, northern district of California.

THE UNITED STATES *vs.* CAYETANO JUAREZ. } San Francisco, November 29th, 1859.

On this day, before me, William H. Chevers, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Julio Carillo, a witness produced on behalf of the claimant, Cayetano Juarez, in case No. 217, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 335 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present: John Curry, esq., of counsel for claimant, and Tully R. Wise, esq., acting U. S. dist. att'y for the U. S.

Question 1st, by counsel for the claimant. What is your name, age, where were you born, and where do you reside?

Ans. My name is Julio Carrillo; my age is 34 years; I was born in San Diego, California, and I reside in Sonoma county, and have resided there since 1837.

54 2nd. Do you know where the place called "Yokaya" is situated? If so, state where.

Ans. I am acquainted with the Yokaya valley; it is in Mendocino county, about 30 leagues from Sonoma city, which is in the southerly part of Sonoma county.

3rd. Did you ever visit the place called "Yokaya?" If so, state when you first visited it.

Ans. Yes, sir. In 1844 was the first time I visited it.

4th. Was that place then inhabited; if yea, by whom?

Ans. Nobody but the wild Indians occupied it in 1844.

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5th. Do you know Cayetano Juarez; if yea, how long have you known him?

Ans. I know him, and have known him since 1837.

6th. Where was he residing in 1837?

55 Ans. He resided in what was then known as the Sonoma district. He has continued to reside there till now.

7th. State whether you again visited "Yokaya;" if yea, when?

Ans. In the month of June or July, 1845, I visited it again.

8th. Were there any white inhabitants residing there at the time you last mentioned? If yea, state who.

Ans. Mr. Bicente Juarez, brother of Cayetano Juarez, was residing there then, and he was the only one living there.

9th. State how he lived there, and what he was doing?

Ans. He had a small house, corral, horses, cattle, and he had some civilized Indians for servants, one of whom I had seen living with Cayetano Juarez, in Napa; his name was Senica.

10th. Did you buy any cattle of Bicente Juarez at that time?

Ans. Yes, sir; I bought a beef.

56 11th. State if you know anything about a grant being issued to Cayetano Juarez, for the place called "Yokaya," of which you have been speaking.

Ans. I do not know anything of my own knowledge of the issuing of the grant. I know that the horses, corral, cattle, house, &c., were there in charge of Vicente, and I understood that they belonged to Cayetano Juarez. I also heard at that time that there was a grant made to Cayetano Juarez for this land.

Cross-examination.

Ques. 12th. From whom did you hear, at the time, expressed in your answer to the question 11, that Cayetano Juarez had received a grant to this land?

Ans. I heard it from Vicente Juarez, from my brother, Ramon Carillo, and Salvador Vallejo.

13th. Upon what occasion did these persons tell you of the grant, and what led to it?

57 Ans. My brother and Cayetano Juarez went up to the Yokaya valley and other places to look after Indians and get them to work for them before I went up in 1844.

In conversations I had with the people I have mentioned, in 1845, I understood that Cayetano Juarez had obtained this grant. I did not understand how many leagues there were in it, but it was bounded on the south by the Fernando Feliz grant, on the north by the Calpella, a place occupied by a tribe of Indians, of which Calpella was chief, and I think it was bounded on the east and west by the mountains.

14th. From the information derived from these persons, and from the knowledge which you obtained while on the ground, state what quantity of land you consider embraced within the limits you have mentioned.

Ans. I believe that it is from fifteen to twenty miles long, and from two to five miles wide.

JULIO CARRILLO.

Sworn to and subscribed before me Nov. 29, 1859.

W. H. CHEVERS,
U. S. Com.

58 Endorsed : Filed March 6th, 1860.

W. H. CHEVERS, *Clerk.*

Dep. of H. F. Teschmaker.

UNITED STATES DISTRICT COURT,
Northern District of California.

THE UNITED STATES
vs.
CAYETANO JUAREZ,
} San Francisco, March 6, 1860.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Henry F. Teschmacker, a witness produced on behalf of the claimant in case No. 217, being an appeal from the board of commissioners to ascertain and settle private land claims in the state of California, in case No. 355 on the docket of the said board of commissioners, and was duly sworn and testified as follows :

Present : Judge Curry for claimant ; acting dis't att'y for U. S.

Questions by att'y for claimant.

59 Ques. 1. Your age and place of residence, and how long have you resided in California?

Ans. 1. Am 37 years of age. I reside in San Francisco. Have resided in California for 18 years last past. I came to California from Massachusetts. I am president of the board of supervisors. I knew Pio Pico at one time. I knew him as primer vocal or first speaker of the assembly. Afterwards he was governor. He was acting governor in 1845 and 1846. He was acting as governor as early as May or June. I think it was earlier than that, but it was in the commencement of 1845. It was in February, 1845, I think. I have seen Pio Pico write, and I am acquainted with his handwriting.

Ques. 2. State whether or not the name of Pio Pico, signed to the document in this case, purporting to be a titulo or grant made by said Pio Pico as primer vocal or governor to Cayetano Juarez, bearing date May 24th, 1845, for the place called "Ukiah," is the said Pico's genuine signature.

Ans. 2. To the best of my knowledge and belief it is his genuine signature. I knew Juan Bandini while Pico was governor ;
60 he held the position at one time of secretary of state, or a position equivalent to that. I have seen him write, and am

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acquainted with his handwriting. I believe that his signature signed to the aforementioned grant is his genuine signature. I knew Cayetano Juarez. I believe he was a native Californian. I knew him in 1845 and 1846. I have examined the signature of Pio Pico to the marginal decree in the expediente in this case, on file in the surveyor general's office, and believe it to be his genuine signature.

H. F. TESCHMACKER,

Subscribed and sworn to before me this 6th of March, A. D. 1860.
[SEAL.] CUTLER McALLISTER,
U. S. Com'r.

Endorsed: Filed March 6th, 1860.

W. H. CHEVERS, *Clerk.*

Order that proofs be closed in 30 *days.*

61 At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Friday the 17th day of May, in the year of our Lord one thousand eight hundred and sixty-one.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
CAYETANO JUAREZ. } No. 217.

And now at this day, on motion of attorney for claimant, the U. S. att'y consenting thereto, it is ordered that the proofs in this case be closed within thirty days, and the case set for hearing.

Endorsed: Filed May 17, 1861.

W. H. CHEVERS, *Clerk.*

Notice to att'ys for claim't, suggesting the exam'n of Pio Pico.

62 U. S. ATTORNEY'S OFFICE,
San Francisco, June 1, 1861.

Messrs: JOHN CURRY,
JOHN J. WILLIAMS, esq'r:

GENTS: You are hereby notified that Gov. Pio Pico is now in San Francisco. As I intend to impeach the validity and genuineness of the grant produced in the case of Cayetano Juarez claiming Yokaya, and which purports to have been executed by Gov'r Pico on the 24 May, 1845, I suggest the propriety of your examination of Gov. Pico while he is in this city.

Resp'y, &c., &c.,

W. H. SHARP,
U. S. Att'y.

SAN FRANCISCO, *June* 3, 1861.

The original of the above notice was personally served by me on Jno. J. Williams, esq., this day.

JNO. B. WILLIAMS.

Endorsed: Filed June 3, 1861.

W. H. CHEVERS, *Clerk.*

63 [Translation from Toma de Razon, 1845, and approval of departmental assembly.]

"*Toma de Razon.*"

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"On the 24th day of May, 1845, was conceded to Cayetano Juarez the land known by the name of Yokaya."

Approval of departmental assembly.

"In the matter of Don Cayetano Juarez was approved the concession made to citizen Cayetano Juarez, of the place Yokaya, in the vicinity of Cape Mendocino, jurisdiction of Sonoma, in the extent of eight square leagues, according to the title delivered under date 24th of May, of the year last past, in conformity with the law of August, 1824, and the 5th article of the Regulations of the 21st of November, 1828."

Endorsed: Filed Sept. 14, 1861.

W. H. CHEVERS, *Clerk.*

64 *Dep. of R. C. Hopkins.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* CAYETANO JUAREZ. } In land cases, district court No. 217. Land com. No. 335.

Be it remembered that, on this 6th day of July, A. D. 1861, at San Francisco, in the district aforesaid, before me, Cutler McAllister, a commissioner appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States pursuant to the acts of Congress in that behalf, personally appeared Rufus C. Hopkins, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: J. B. Williams and Wm. H. Sharp, for the United States; John Curry and J. J. Williams, for claimant.

65 *Questions in behalf of the United States.*

Question 1st. Your name, age, and occupation.

Ans. 1. My name is Rufus C. Hopkins; I am about 21 years of age, and upwards; I am keeper of the archives in the office of the

U. S. surveyor general for the State of California ; have been in such office since 1855.

Ques. 2nd. Look at the paper hereto annexed, now shown you, marked "Exhibit Hopkins No. 1," and state what it is.

Ans. 2nd. It is a photographic copy of a document purporting to be a grant to Cayetano Juarez of the place called "Yokaya," the original of which is on file in case No. 335, on the docket of the late board of the U. S. land commissioners as Exhibit No. 1, to the deposition of Mariano G. Vallejo, taken in this case before the said board.

(The foregoing document objected to because it does not exhibit fairly or accurately the original grant on file in this cause, as is apparent from the inspection and comparison of the two documents.)

66 Ques. 3rd. State by whom the original of "Exhibit Hopkins No. 1" purports to have been signed, and its date.

Ans. 3rd. It is dated on the 24th day of May, 1845, and purports to have been signed by Pio Pico and Juan Bandini, who were at that time respectively governor and secretary of state.

Ques. 4th. State whether, from your experience as keeper of the archives, you are familiar with the signatures of the former governors and secretaries of the former Mexican department of California.

Ans. 4th. I am familiar with the signatures of the officials of the Mexican government. This familiarity, however, has not been acquired by having seen them write, but only by an examination and comparison of the signatures in the archives.

Question 5th. Examine the document marked "Exhibit Hopkins No. 2," hereto annexed, and state what it is.

67 Ans. 5th. Exhibit Hopkins No. 2 is a photographic copy of the signatures of Pio Pico, José Maria Covarrubias, and Juan Bandini, which appear to have been taken from grants on file in the archives bearing date, respectively, on the 19th May, 1845, 24th May, 1845, and 26th May, 1845.

(The above document is objected to as evidence in this case as being irrelevant and incompetent.)

Ques. 6th. State from your experience, as keeper of the archives, whether the signatures of Pio Pico and Bandini appearing on "Exhibit Hopkins No. 2" were executed by the same persons who executed the signatures appended to documents now found in the archives under your charge whose genuineness is undisputed.

(Question objected to as being involved and defective in form, and as testimony incompetent and irrelevant.)

Ans. 6th. I think the originals of the signatures of Pio Pico and Juan Bandini, as shown upon "Exhibit Hopkins No. 2," are genuine, inasmuch as they are like the signatures of those gentlemen as found in the archives.

68 Ques. 7th. Now examine together Exhibits Hopkins Nos. 1 and 2, the former dated the 24th May, 1845, and the latter bearing the dates of the 18th, 24th, 26th of May, 1845, and state whether from your knowledge of the archives and of the signatures appearing in said archives, as before stated by you ; the originals of

said exhibits respectively, so far as the signatures of Pio Pico and Juan Bandini are concerned, were signed by the same persons.

(Objected to as incompetent.)

Ans. 7th. The signatures of Pio Pico and Juan Bandini, as found upon "Exhibit Hopkins No. 1," appear to be somewhat different from the signatures of those gentlemen as found upon "Exhibit Hopkins No. 2." Whether this difference be the result of accident, or whether they in fact were not written by the same persons, this deponent cannot say.

Ques. 8th. Examine "Exhibit Hopkins No. 3," now attached to your deposition, and state what it is.

Answer 8th. "Exhibit Hopins No. 3" is a photographic copy of a document purporting to be a grant to Victor Prudon and
69 Marcus Vaca of a place called Laguna de Santos Calle, on file in the archives of the former board of land commissioners; it purports to be signed by Pio Pico, governor, and José Mathias Moreno, secretary.

(The above document objected to as incompetent testimony.)

Ques. 9th. State from your knowledge of the archives if you know in whose handwriting is the body of the grant of which you state that "Exhibit Hopkins No. 3" is a photographic copy.

(Question objected to as incompetent.)

Ans. 9th. The handwriting of the body of Exhibit No. 3 appears to me to bear some resemblance in its general features to that of Victor Prudhon. The signature of Pio Pico to this document, "Exhibit Hopkins No. 3," is manifestly different from the signature of Pico as found upon "Exhibit Hopkins No. 2." It is also manifestly different from the signature of Pio Pico on "Exhibit Hopkins No. 1," the original grant in this case.

Ques. 10th. Now examine Exhibits Hopkins Nos. 1 and 3 together, and state whether or not the bodies of each grant are not in
70 the handwriting of the same person.

(Ques. objected to as incompetent.)

Ans. 10th. The handwritings of the bodies of the two documents bear a strong resemblance to each other.

Ques. 11th. Do you know what office, if any, Victor Prudon held in the former government from the 1st May, 1845, to the 1st January, 1846?

Ans. I do not know whether or not he had any office during that period.

Cross-examination.

Ques. 12th. Are there not grants in the archives undoubtedly genuine, the bodies of which are written in the same handwriting as appears on the original grant in this case?

Ans. 12th. I think there are genuine grants in the archives the bodies of which are written by Victor Prudon. I cannot state the dates of said grants.

71 Ques. 13th. Did you examine the archives as requested by

me to see what evidences there existed of the fact that a grant was issued by Governor Pio Pico on the 24th day of May, 1845, for the land described in the original grant on file in this case?

Ans. 13th. I have made such examination.

Ques. 14th. State, if you please, what you found on such examination?

Ans. 14th. I have found upon a "borrador," or memoranda of orders made by the governor in the month of May, 1845, an entry in the handwriting of Narciso Bortello, (who was one of the clerks of the office of secretary of state,) of which the following is a translation: "On the petition of Señor Don Cayetano Juarez, presented on the 8th of April, soliciting eight square leagues, the following decree was made: "Angeles, May 24," 1845. There is conceded to the interested party that for which he petitions, therefore, let the corresponding title issue; the governor of the department thus decreed, ordered, and signed."

Across this entry, on the original, there is drawn a line as a check to show that the order had been entered in the proper book.

72 (A certified copy of this document is here offered in evidence, and annexed to this deposition, marked "Exhibit Hopkins No. 4.")

There is also found in the archives the corresponding espediente for the grant of the place named "Yokaya;" it is numbered 452, and referred to by number and description in the Hartnell index. There is also a registry of a grant to Cayetano Juarez of a place called "Yokaya," in the Toma de Razon of 1845, the date of which corresponds with the date of the grant in this case. The journals of the departmental assembly for 1845 show the approval of a grant made to Cayetano Juarez on the 24 May, 1845, of a place called "Yokaya."

(Question and answer 14, together with "Exhibit Hopkins No. 4," objected to as irrelevant and incompetent, because the said exhibit and the other document referred to as found in the custody of the United States, do not and cannot prove the document produced by the claimant in this case, which is the original of "Exhibit Hopkins No. 1," to be the genuine grant referred to in said Ex-

73 hibit No. 4, and in the other documents referred to ina nswer No. 14.)

Ques. 15th. Look at the marginal order under date May 24th, 1845, and over the signature of Pio Pico, found on the 2nd page of said espediente, and state what it is, in whose handwriting it is, body and signature?

Ans. 15th. This is a marginal order in the handwriting of Juan Bandini, who was at the date of the same secretary of state, and it is signed by Pio Pico, and I think his signature to the same is genuine; this marginal order is the same verbatim et literatim with the one referred to and translated in my answer No. 14.

Ques. 16th. Does not the said espediente show that the proper entry was made in the Toma de Razon?

(Question objected to as irrelevant, because there is a copy of the espediente on file in this case, which speaks for itself.)

Ans. 16th. It does.

Ques. 17th. Look at the entry on said espediente under date "Angeles, May 8, 1846," and over the signatures of Pio Pico and
74 Agustin Olvera, and say what it is, and in whose handwriting it is, body and signature?

Ans. 17th. The said entry is an order of the departmental assembly referring the espediente to the committee on vacant lands; it is in the handwriting of Cayetano Arenas, who often wrote in the office of the departmental assembly and of the secretary of state, and the signatures are those of Pio Pico, president of the departmental assembly, and of Agustin Olvera, secr'y of state.

Ques. 18th. Look at the two concluding entries on the said espediente, and state what they are and in whose handwriting they are, bodies, and signatures?

Ans. 18th. The first is the report of the committee upon vacant lands; it is in the handwriting of Santiago Arguello, the chairman of the committee on vacant lands, at the date of the grant, and it is signed by himself.

The second is an entry in the handwriting of Cayetano Arenas, and it is an approval of the departmental assembly of the pre-
75 ceding report of the com. on vacant lands.

Ques. 19th. Do not all said documents and entries, specified in answer 14, appear fair and genuine, and are they not found in their proper places in the archives?

(Objected to as irrelevant because the United States do not dispute or question the genuineness of the espediente and other documents referred to in answer 14, nor of any other documents found in the proper governmental custody, but in this case only question the genuineness of the grant produced by the claimant.)

Ans. 19th. They do, and are so found.

Direct examination resumed.

Ques. 20th. Examine "Exhibit Hopkins No. 2," in connection with the espediente referred to in your cross-examination, and state whether the signatures of Pio Pico, appearing upon said exhibit, and in said espediente, do not appear to have been made by the same person?

76 Ans. 20th. They do.

Ques. 21st. Examine the marginal order in said espediente, which you have described in your cross-examination as having been written by Juan Bandini, in connection with the words "se tomó razon," and to which the signature of Bandini appears to be annexed, appearing on the original of "Exhibit Hopkins No. 1," and state whether the said marginal order, and the words and signature appearing on the original of said "Exhibit Hopkins No. 1," were written by the same person?

(Question objected to as incompetent.)

Ans. 21st. Upon the original of the exhibit referred to, the words "Se tomó razon" appear to be in the same handwriting with the body of the grant; this is usual in grants. The signature of "Bandini" appears to be different from the handwriting of Bandini on the espediente. It is difficult, however, to draw a just comparison in handwritings where upon one side there is but one word.

R. C. HOPKINS.

77 Subscribed and sworn to before me this 6th day of July, A. D. 1861.

CUTLER McALLISTER,
[SEAL.] *U. S. Comm.*

Endorsed: Filed Nov. 7th, 1861.

W. H. CHEVERS, *Clerk.*

(Here follows Exhibit Hopkins Nos. 1, 2 and 3, photographs.)

78 *Exhibit Hopkins No.* 1.

Sello tercero, un peso.

Habilitado provisionalmente per la aduana maritima del puerto de Monterrey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA.
PABLO DE LA GUERRA.

Pio Pico, vocal mas antiguo de la honorable asamblea del departam'to de California y encargado del gobierno del mismo por el ministerio de la ley:

Por cuanto D. Cayetano Juarez, Mejicano por nacimiento ha pretendido para su beneficio personal y el de su familia el pa-
[SEAL.] rage conocido con el nombre de Yokaya, al N. O. de Sonoma, colindante a S. con el ciud'o Fernando Feliz, y por los demas rumbo con las tribus gentiles; practicadas previamente las diligencias y averiguaciones concern'to segun lo dispuesto por leyes y reglamentos. Usando de los facultades q'e me son conferidas a nombre de la nacion Mejicana, he venido en concederle el terreno mencionado declarandolo la propiedad de el por las presentes letras, sujetandose a la aprobacion de la ex'ma junta departamental y bajo los condiciones siguientes.

1a. Podra cercarlo sin perjudicar las travesias, caminos y servidumbres; lo disfrutara libre y esclusivamente destinadolo al uso q'e mas le acomode.

79 2a. Solicitará del juez respectivo que le de la posesion juridica en virtud de este despacho, demarcando los linderos, poniendo sus mohoneras, y algunos raboles frutales ó silvestres de alguna utilidad.

3a. El terreno de qe. se hace donacion es de ocho sitios de ganado mayor, segun el diseño q. acompaña el interesado. El juez que diere la posesion lo hara medir conforme á ordinanza, dejando lo sobrante qe. resulte á la nacion pa. los usos convenientes.

En consecuencia mando qe. teniendose p'r firme y valedero el presentes titulo se tome razon el libro q. corresponde y se entregue al interesado pa. su resguardo y demas fines.

Dedo en la ciudad de los Angeles, capital del departamento de California, á 24 de Mayo de 1845.

PIO PICO.
JUAN BANDINI.

Se tomo razon.

BANDINI.

80

81 *Exhibit Hopkins No.* 2.

Que á los mismos para su en resguardo dado en la ciudad de los Angeles, capital del departamento de California el diez y nueve de Mayo de mil ochocientos cuarenta y cinco.

PIO PICO.

Por ausencia del s'rio.

JOSÉ MA. COVARRUBIA, *Of'l* 1o.

Dado en la ciudad de los Angeles, capital del departamento de Californias á veinte cuatro de Mayo de mil ochocientos cuarenta y cinco.

PIO PICO,
JUAN BANDINI, *S'rio.*

Dado en la ciudad de los Angeles á veinte seis de Mayo de mil ochocientos cuarenta y cinco.

PIO PICO,
JUAN BANDINI, *S'rio.*

82

83 *Exhibit Hopkins No.* 3.

Sello primero ocho pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA.
PABLO DE LA GUERRA.

Pio Pico, gobernador constituc'l del departam'to de Californias:

Por cuanto los ciudadanos Victor Prudon y Marcos Baca han pretendido pa. su beneficio personal y el de sus familias el terreno conocido con el nombre de Laguna de Santos Callé en la jurisd'on de Sonoma practicadas previam'te las averiguaciones y diligencias concernientes, usando de las facultades con que me hallo investido por el s'p'mo gobierno, á nombre de la nacion Mejicana he venido por decreto de este dia en concederles el espresado terreno situado entre

el rio de los putos y abrazando la laguna dicha de Santos Calle colindando con los terrenos del S'or Wolfskill los de D. Manuel Baca y el valle y forma una estencion de once sitios de ganado mayor, poco mas ó menos, como espresan el titulo y diseño adjuntos declarandoles por las presentas letras confirmada la propiedad que obtuvieron de d'ho parage por titulo del s'or director de colonizac'n de la frontera de del norte, D. Mariano G. Vallejo, bajo las condiciones siguientes:

84 1o. Podran cercarlo sin perjudicar los travecias, caminos
85 y servidumbres; lo disfrutaran libro y esclusivamente destinandolo al uso y cultivo q. mas les convengan.

2a. Solicitaran del juez respectivo les de la posesion juridica en virtud de esto despacho por el cual se demarcaran los linderos con las respectivas moboneras.

3a. El terreno de que se hace mencion es de once sitios de ganado mayor, poco mas ó menos. El juez y diere la posesion, lo hara medir conforme á ordenanza.

En consecuencia mando que teniendose por firme valedero se tome razon de este despacho en el libro q. corresponde, y se entregue á los interesados para su resguardo y demas fines. Dado en la ciudad de los Angeles á veinte y nueve de D'bre de mil ochocientos cuarenta y cinco.

PIO PICO.
JOSE MATIAS MORENO, *S'rio Ynt'o.*

Queda tomada razon de este superior despacho en el libro respectivo.
MORENO.

86 *Exhibit Hopkins No.* 4, *&c.*

87 A la inst'a del Señor D. Cayetano Juares presentado con f'ha de 8 de Abril solicitando ocho sitios de ganado mayor, recayo el decreto que sigue, Ang's, Mayo 24 de 1845, se le consede al interesado lo que pretende y al efecto libren el titulo correspondiente. El gobierno del departamento asi lo decreto mando y firmo.

[Translation.]

At the petition of the Señor Don Cayetano Juares, presented on the 8th of April, soliciting eight square leagues, the following decree was made, "Ang's, May 24, 1845. There is conceded to the interested party that for which he petitions, therefore let the corresponding title issue. The governor of the department thus decreed, ordered and signed."

Correct translation,

R. C. HOPKINS.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, E. F. Beale, surveyor general of the United States for the State of California, and as such having in my office and in
88 my charge and custody a portion of the archives of the

former Spanish and Mexican territory or department of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the preceding and hereunto annexed page of tracing paper, numbered from one to —— inclusive, exhibit a true, full, and correct copy of an entry found upon a borrador or memoranda of orders made by the governor, in the month of May, 1845, as the same is on file in said archives.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed at the city of San Francisco, this 6th day of July, 1861.

[SEAL.]

E. F. BEALE,
U. S. Surveyor General for California.

Endorsed: Filed Nov. 7, 1861.

W. H. CHEVERS, *Clerk.*

Examined and found correct.

R. C. HOPKINS,
Keeper of archives.

89 *Dep. of Joel P. Walker.*

In the district court of the United States for the northern district of California.

THE UNITED STATES, *v.* CAYETANO JUAREZ. } In Land Cases. Dist. Court No. 217. Land Com. No. 335.

Be it remembered, that on this 2nd day of July, A. D. 1861, at San Francisco, in the district aforesaid, before me, John B. Williams, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Joel P. Walker, a witness produced in behalf of the United States in the above entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who being duly sworn, testified as follows:

Present: J. B. Williams and W. H. Sharp, for U. S., J. J. Williams, for claimant.

90 *Questions in behalf of the United States.*

Question 1st. Your name, age, and place of residence?

Ans. 1st. Joel P. Walker. I am over 61 years of age. I reside in Sonoma county.

Ques. 2nd. When did you first come to California?

Ans. 2nd. I came here in 1841. In 1841 I was at Capt. Sutter's at New Helvetia, on the Sacramento. I remained there until February, 1842. From there I went to Napa valley, about ten miles above where Napa city now is. I stayed in Napa until some time in 1843. From there went to Oregon. I returned to California from Oregon in the fall of 1848, and went to Napa valley.

Ques. 3rd. Did you know Cayetano Juarez?

Ans. 3rd. I knew him. I first became acquainted with him in 1842. I knew him first on his ranch "Tulucay" near Napa, where he then resided. The "Tulucay was a two league grant.

91 Quest. 4th. State, if you know, what number of cattle Juarez had on his ranch called "Tulucay" in 1843?

(Objected to as irrelevant.)

Ans. 4th. I cannot tell the number. He did not have many, either horses or cattle.

Ques. 5th. Do you recollect any circumstance occurring at that time by which you became acquainted with the number of his stock?

(Objected to as irrelevant.)

Ans. 5th. No, nothing, only in the spring of 1843 I was endeavoring to buy some cattle to take to Oregon. I tried to get some from Juarez, horses, &c., but he said he was just stocking his ranch "Tulucay" near Napa, and had none to spare.

Ques. 6th. Do you know the place called "Yokaya" now called "Ukiah," and if so, in what year did you first become acquainted with it?

Ans. 6th. I know it, and have been acquainted with it since 1854. I was in the lower part of the valley in 1849. Since 1854 I have travelled all over it up and down.

92 Ques. 7th. What was the state of that part of the country that you saw in 1849 with respect to its occupation by Indians and by white settlements?

(Question objected to as irrelevant.)

Ans. 7th. I saw no white persons in that part of the valley; it was all Indians. The Indians ran off from us; they broke and run to the brush.

Ques. 8th. Were you well acquainted with the country and people, between Napa valley and Ukiah valley, from 1849 up to 1854?

(Objected to as irrelevant.)

Ans. 8th. Yes, sir.

Ques. 9th. When did you first hear that there was a Mexican grant covering the land now occupied by Ukiah City?

Ans. 9th. It was in 1852 that I first heard of it. I heard it first from Mr. Phelps, when riding with him from Napa to Benicia. He said he had a grant or a claim there, or something to that effect, something that he had purchased. This was in 1851 or

93 1852. It might have been 1851.

Ques. 9th. When did you first hear of stock being driven to Ukiah valley, and by whom?

(Objected to as irrelevant.)

Ans. 9th. In 1849 John Parker drove up stock to "Yokaya," the stock were said to belong to Jim Black and Tim Murphy.

Ques. 10th. Do you know Cyrus Alexander, and if so, state how long you have known him, and whether his memory with respect to transactions long past can be relied upon?

(Question objected to as irrelevant, and also as incompetent for the purpose of impeaching the testimony of Alexander.)

Ans. 10th. I know Cyrus Alexander. I became acquainted with him in 1842. I don't think anybody could impeach what Alexander testifies, but as to his memory he is, like all other men, absent minded. But when he knew a thing, nobody knows it better. But Alexander is forgetful.

JOEL. P. WALKER.

94 Subscribed and sworn to before me, this 2nd day of July, A. D. 1861.

[SEAL.] CUTLER McALLISTER,
U. S. Com'r.

Endorsed: Filed Nov. 7th, 1861.

W. H. CHEVERS, *Clerk.*

Dep. of Jesse Beasly.

In the district court of the United States for the northern district of California.

THE UNITED STATES, } In Land Cases.
v. } Dist. Court No. 217.
CAYETANO JUAREZ. } Land Com. No. 335.

Be it remembered that on this 2nd day of July, A. D. 1861, at San Francisco, in the district aforesaid, before me, Cutler McAllister, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant
95 to the acts of Congress in that behalf, personally appeared Jesse Beasley, a witness produced in behalf of the United States in the above entitled cause, now pending in said court, under the acts of Congress, to ascertain and settle the private land claims in the State of California, who being duly sworn, testified as follows:

Present: J. B. Williams and Wm. H. Sharp, for the United States; J. J. Williams, for claimant.

Questions in behalf of the United States.

Question 1st. State your name, age, and place of residence.

Ans. 1st. Jesse Beasley; I am about 46 years of age; I reside in Napa county.

Ques. 2nd. State when you first came to California.

Ans. 2nd. I first came to California in 1843, and went to Sutter's

Fort; at that time I stopped there about five months. Then I came down into Napa valley and Bodegas; this was about the first of 1844. I have lived in Napa and Sonoma valleys ever since. I lived in Napa valley until the Bear Flag revolution in 1846. My
96 home was at old man Yontz. Since that time, until about two years ago, I have lived in Sonoma valley. At that time I moved back into Napa.

Ques. 3rd. Did you know Cayetano Juarez, who occupies the ranch called "Tulucay," near Napa; if so, when, and where did you first know him?

Ans. 3rd. I know him; I knew him first in 1844; I knew him first on his ranch in Napa valley.

Ques. 4th. State, if you recollect, how much stock Juarez had on his ranch in Napa valley in 1844 and 1845, and your means of knowledge.

(Question objected to as irrelevant.)

Ans. 4th. In those years I saw his stock at his rodeos; I never counted them, but from the quantity would say there was somewhere about 2, 3, or 400 head.

Ques. 5th. Do you know the place called Ukiah valley; and if so, in what year did you first know it?

97 Ans. 5th. I know the place that they call Ukiah valley. I was there in 1845 for the first time to the best of my knowledge. I went with Julio Carillo to look after some Indians.

Ques. 6th. Do you know the rancho of Fernando Feliz; and if so, state its relative position to Ukiah valley.

Ans. 6th. We went through Feliz ranch in order to get to the valley.

Ques. 7th. When you arrived in Ukiah valley, in company with Julio Carrillo, in 1845, as you have before stated, who did you find occupying that valley?

Ans. 7th. Nothing but wild Indians.

Ques 8th. Did you see any cattle or stock of any kind, or corrals, or houses, or anything indicating any possession by native Californians at that time in Ukiah valley?

Ans. 8th. I saw none; nothing more than the animals we took with us.

Ques. 9th. State, if you recollect, in what month in 1845 you visited Ukiah valley in company with Julio Carrillo.

98 Ans. 9th. To the best of my knowledge it was in June or July; I can't say exactly.

Ques. 10th. In the deposition of Julio Carrillo, examined in this case Nov'r 29th. 1859, he stated, in answer to question 7th, that, "in the month of June or July, 1845, I visited it again," (meaning Ukiah valley;) and in answer to ques. 8th, he stated: that he found in the valley Vicente Juarez, the brother of Cayetano Juarez, who was residing there then, and the only one living there; and in answer to ques. 9, that Vicente Juarez had a small house, corral, horses, cattle, and some civilized Indians for servants. Now state if, at the time you accompanied Julio Carrillo, in 1845, to Ukiah valley in June

or July of that year, you found Vicente Juarez there in a house with a corral, horses, cattle, and civilized Indians for servants.

(Question objected to as illegal in form.)

Ans. 10th. I saw nothing of him, Vicente Juarez, no house,
99 corral, cattle or stock except what we took with us.

Ques. 11th. In the same deposition Julio Carrillo states, in answer to question 10th, that on that trip he bought a beef of Vicente Juarez. Do you recollect, on the trip you made with Julio Carillo, of buying a beef from any one?

Ans. 11th. I did not see him buy any. We never bought a beef until we came back. We had our guns along with us, and shot our meat, such as deer, elk, &c.

Ques. 12th. State the next time you visited Ukiah valley after 1845.

Ans. 12th. I think I travelled up again in Ukiah in 1846. I went up with Mr. West. I won't be certain whether it was in 1846 or 1847. It was Marcus West that I went with.

Ques. 13th. Did you see any signs of occupation on this occasion in the way of houses, corrals, or by stock?

Ans. 13th. I did not see any at all.

Ques 14th. State the earliest period that stock was placed in "Yokaya valley," to your knowledge, and by whom was it
100 placed.

Ans. 14th. I don't know what time the stock first went there; I passed through there some time in 1850 or 1851, and there was stock there then with the mark of James Black on them.

Ques. 15th. Were you acquainted, prior to the change of flags, with the mode in which the Mexican rancheros in Napa valley and its vicinity made use of the wild Indians in gathering their harvest; and if you do, please state the means adopted to obtain the services of these Indians.

(Ques. objected to as irrelevant.)

Ans. 15th. I have been with them several times. They generally take about 15 or 20 men, go out and capture a rancheria of wild Indians, bring them in and make them harvest for them, and when they get through with them they would go back to their rancheria. They got their Indians sometimes in Ukiah valley and above Ukiah valley.

Cross-examination.—Ques. by counsel for claimant.

101 Ques. 16th. How many were in the party at the time you visited "Yokaya" valley, in June or July, 1845?

Ans. 16th. There were between 25 and 30, including Indians and vaqueros.

Ques. 17th. State the names as far as you can.

Ans. 17th. Myself, Julio Carrillo; the names of the others I don't recollect. Some of the vaqueros were Indians and some Spaniards. I think Julio Carrillo's brother was with us.

Ques. 18th. Where did Julio Carrillo live at that time?

Ans. 18th. He lived on his ranch in Santa Rosa.

Ques. 19th. Did you bring away any Indians at that time from "Yokaya?"

Ans. 19th. From there and above there he fetched down a lot of Indians.

Ques. 20th. What place did you go to above "Yokaya," what valley?

Ans. 20th. I don't recollect of any name they had for the place.

102 Ques. 21st. Was it a valley or not?

Ans. 21st. We were in the rolling hills out from the river. I did not see any valley.

Ques. 22nd. What stream runs through "Yokaya" valley?

Ans. 22nd. I never heard any name but Russian river for it.

Ques. 23rd. Where is the head of Russian river?

Ans. 23rd. I don't recollect of ever having been to it.

Ques. 24th. How far above "Yokaya" valley did you go?

Ans. 24th. Not a great distance. I can't say how many miles. Don't think we were ten miles above the valley.

Ques. 25th. State whether "Yokaya" valley is longer up and down than it is across?

Ans. 25th. I never measured it. It appears to me from the point where I saw it, that it was longer running with the river than it is across.

103 Ques. 26th. Did you find any other streams in the valley than the Russian river?

Ans. 26th. There was a stream in "Yokaya" valley where we camped, running in from the mountains.

Ques. 27th. On which side of the valley did you camp?

Ans. 27th. It must have been on the west side, I should judge. It was near the lower end of the valley.

Ques. 28th. Did you go on the east side of the Russian river?

Ans. 28th. No, sir.

Ques. 29th. State whether the "Yokaya" valley and the Feliz rancho, of which you have spoken, both lie in the general valley of the Russian river.

Ans. 29th. They both lay on Russian river, I think. I am not able to say whether the "Yokaya" comes down as low as Feliz ranch or not, it lays above Feliz's.

104 Ques. 30th. State whether there are any mountains between the Feliz ranch and the "Yokaya."

Ans. 30th. The hills close down to the river, we went over some rolling hills to get into "Yokaya" valley. The Feliz valley may extend into the Ukiah, but the way we went to Yokaya we went over some rolling hills.

Ques. 31st. State what was the object of your visits to "Yokaya" in 1844, 1845, and 1846 or 1847.

Ans. 31st. The first time Carrillo invited me to go with him, and I went with him. The second time West invited me to go with him, and I went with him. These were the only occasions on which I was there prior to 1851.

Ques. 32nd. Was there any cultivation in "Yokaya" valley when you went there first in 1845 and the next visit after?

Ans. 32nd. I did not see any.

Ques. 33rd. State whether there was not a large growth of timber in "Yokaya" when you visited it as you have stated?

105 Ans. 33rd. There was groves of oak timber through the valley. We travelled through places in the valley where there was timber, and in other places there was none. There was considerable timber in the valley, oak timber. I did not notice any pine timber; there might have been; I don't recollect of seeing any.

Ques. 34th. At the time you and Carrillo went there, how long were you there, and did you separate at all while you were there?

Ans. 34th. We were up there in "Yokaya" valley about two days. We camped in the same place there together two nights. We never, while we were there, separated any great distance. At times we might have been 4 or 500 hundred yards apart; what I mean is that we all stayed together in one party.

Ques. 35th. Are you sure that the time you went to "Yokaya" with Carrillo, was in 1844 or 1845?

Ans. 35th. To the best of my recollection it was in 1845, but I can't be positive.

106 Ques. 36th. How many years after you went with Carrillo was it that you went with Marcus West?

Ans. 36th. I cannot be positive. I think it was the second year after I went with Carrillo.

Ques. 37th. What is the character of Julio Carrillo?

Ans. 37th. I believe his character is as good as any man's in the county in which he lived. He has a high character, and is an honest, upright gentleman. But in this instance one or the other of us must be mistaken, I think.

JESSE BEASLEY.

[SEAL.] Subscribed and sworn to before me, this 2nd day of July, A. D. 1861.

CUTLER McALLISTER,
U. S. Com'r.

Endorsed: Filed Nov. 7, 1861.

W. H. CHEVERS, *Clerk.*

107 *Dep. of Elias Barnett.*

In the district court of the United States for the northern district of California.

THE UNITED STATES	}	In land cases.
v.	}	Dist. Court No. 217.
CAYETANO JUAREZ.	}	Land Com. No. 335.

Be it remembered that on this 2nd day of July, A. D. 1861, at San Francisco, in the district aforesaid, before me, Cutler McAllister, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail

and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Elias Barnett, a witness produced in behalf of the United States in the above entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows :

Present : J. B. Williams and Wm. H. Sharp, for the United States; J. J. Williams, for claimant.

108 *Questions in behalf of the United States.*

Question 1st. Your name, age, and place of residence?

Ans. 1st. Elias Barnett; am 56 years of age. I reside in Napa county.

Ques. 2nd. When did you first come to California?

Ans. 2nd. I came to California in 1842. Went to Sutter's Fort, stayed there about three months. From there I went to Napa valley, stayed there at that time about two months, and then went to Fitch's ranch, Russian river valley, stayed there about six months, and from there I went to Cache creek, Yolo co., and stayed there about six months, and I returned to Napa in the spring. I then lived in Napa county till 1849; I then moved from there to the Stanislaus, in San Joaquin county. In 1853 I went back to the place I am now living at, and have been there ever since.

Ques. 3rd. Did you know Cayetano Juarez, who had a rancho in Napa valley named "Tulucay," and if so state when you first became acquainted with him.

109 Ans. 3rd. I knew Cayetano Juarez who had said ranch. I first became acquainted with him in 1842, at Mr. Yontz's ranch, afterwards knew him on his own ranch, "Tulucay."

Ques. 4th. Did you know the "Tulucay" in 1844 and 1845, and if so, state about how many head of cattle were on the ranch at that time.

(Objected to as irrelevent.)

Ans. 4th. I knew the "Tulucay" rancho in 1844 and 1845. I heard the vaqueros, who marked the cattle on that ranch, talking in 1844, one day; they were saying how many they marked in all, and were talking about the number of cattle, and they said there were 300 head, according to the best of my recollection.

(Answer objected to as irrelevant, incompetent, and hearsay.)

Ques. 5th. Did you ever hear, in 1844 or 1845, that Juarez had taken or sent stock to the "Yokaya" valley; and state, also, who to your knowledge first took stock into that valley, and when?

110 (Question objected to, the first part as being irrelevant and incompetent, the second part on the same grounds.)

Ans. 5th. In 1844 or 1845 I never heard that Juarez had taken or sent stock to the "Yokaya" valley. The first man I knew of was John Parker, who took stock there.

Ques. 6th. Was your knowledge of the country and of the people, and of stock matters generally, in 1844, 1845, and 1846, of such a

character, as would likely have brought to your knowledge the fact, if any stock had been driven to "Yokaya" in those years?

(Ques. objected to on the grounds that the inquiry is irrelevant and the testimony sought incompetent, and the question leading.)

Ans. 6th. I lived on one of the roads that they would have had to pass. I never knew of any cattle, except the ones that I have specified, being driven into "Yokaya." The road that I lived on went right up Napa valley to Fitch's ranch, and from thence to "Yokaya" and the coast. The road branched at Fitch's ranch, one branch
111 went to Ukiah, and the other to the coast. The road I lived upon was the only one leading up through Napa valley to Fitch's ranch.

Ques. 7th. Were you one of Frémont's party? and if so, state in what year.

Ans. 7th. I was, in 1846, I think.

Ques. 8th. State whether, to your knowledge, while you were in Frémont's party, you procured any horses from "Yokaya" valley.

Ans. 8th. No, sir, we did not. I did not hear of any.

Ques. 9th. State whether that party procured any horses at the "Tulucay" ranch in Napa valley owned by Cayetano Juarez, and if so how many?

(This and preceding testimony objected to as irrelevant.)

Ans. 9th. I heard the men say they got a few from Cayetano Juarez and Salvador. I heard them state the number they got from Salvador, but not what they got from Cayetano.

112 *Cross-examination.*

Ques. by cl'm'ts att'y:

Ques. 10th. How far was your residence in Napa valley above the city of Napa, and in what direction therefrom?

Ans. 10th. It was about 26 miles above, about westerly or a little north of west, from Napa.

Ques. 11th. Was it not necessary, in passing from the "Tulucay" ranch, up and through Napa valley to the Fitch ranch on the Russian river, to pass over a range of mountains?

Ans. 11th. It was necessary.

Ques. 12th. About how wide is that range of mountains at the passage through?

Ans. 12th. About three miles.

Ques. 13th. Was there a road from the "Tulucay" ranch to the place where the city of Sonoma now is?

Ans. 13th. There was.

Ques. 14th. Was there a road from the city of Sonoma up to the Fitch ranch?

113 Ans. 14th. There was.

Ques. 15th. How near to the place where you lived was the nearest portion of the roads last mentioned?

Ans. 15. The nearest part of this road to where I lived was where Napa city now is; the distance was about 26 miles. And from my

place to the nearest point on the road from Sonoma to Fitch's was 20 miles.

Ques. 16th. What was the general character of the road from "Tulucay" by the way of Sonoma city to Fitch's ranch at that day?

Ans. 16. That road was the best road.

his
ELIAS + BARNETT.
mark.

Sworn to and subscribed by his mark before me this 2nd day of July, A. D. 1861.

CUTLER McALLISTER,
U. S. Com'r.

Endorsed: Filed Nov. 7th, 1861.

W. H. CHEVERS, *Clerk.*

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[Extract from Jimeno's Index.]

Continuacion del Indice de Espedientes de Terrenos desde la entriega del Sor Jimeno.

| | | |

Examined and found correct.

R. C. HOPKINS,
Keeper of Archives.

Endorsed: Filed Nov. 13, 1861.

W. H. CHEVERS, *Clerk.*

116 *Dep. of Vicente Juarez.*

District court of the United States, northern district of California.

THE UNITED STATES
vs.
CAYETANO JUAREZ. } San Francisco, April 25th, 1860.

On this day before me, William H. Chevers, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Vicente Juarez, a witness produced on behalf of the claimant in case No. 217, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 335 on the docket of the said board of commissioners, and was duly sworn and testified as follows, his evidence being interpreted by a sworn interpreter, to wit: by Thomas Pastor.

Present: Messrs. Curry and Hastings, counsel for the claimants, and Tully R. Wise, esq., acting U. S. attorney for the U. S.

Question 1st by counsel for the claimants.

What is your name, age and place of residence?

117 Ans. Vicente Juarez, 47 years of age, lives in Contra Costa co., Monte Diablo ranch.

Ques. 2nd. Do you know where the place called Yokaya is situated; if so, where?

Answer. I do know the rancho called Yokaya. It joins the rancho Savel, owned by Fernando Feliz. The Russian river passes through Yokaya. I can't tell exactly the distance from Sonoma, but should think it at least 20 leagues to the north.

Question 3rd. Were you ever on the Yokaya ranch? and if so, when did you first go there, and how long did you remain?

Answer. I have been on the ranch. I first went there in April, 1845, and staid there five months. I went there to establish a ranch. Went back there about the last of the year. The first time I went there to establish the ranch I took with me a band of cattle and horses belonging to my brother, Cayetano Juarez, who is now the claimant in this case. I know the grant was made to my brother, but don't know how the case stands now. I was sent to the ranch by my brother for the purpose above stated. I staid there on

118 the ranch after going there the second time, until the Frémont-American revolution. Frémont's party took away the horses, and we came away. They left me but one horse. I left the place because I was afraid to stay there with but one horse, on account of the bad Indians.

Question 4th. How much stock did you find on the ranch when you returned?

Ans. When I came back in Aug., 1846, after the revolution, there was no stock on this ranch. I found a cow and an ox on Fitch's ranch, about ten leagues south of the Yokaya ranch.

Ques. 5th. State what improvements, if any, you made on the Yokaya ranch when you established the same in 1845.

Ans. I built two corrals, one for the cattle and one for the horses, and a small house on the bank of the river, and houses were also put up for the Indians, which Cayetano Juarez employed on the ranch. Some of the Indians were sent by Cayetano Juarez along with the stock from Napa. I had charge of the Indians and stock as
119 the agent of Cayetano Juarez, whose agent I was in the establishment of the ranch.

Ques. 6th. Did you ever recover the horses which were taken from the ranch by Frémont's party?

(Question objected to as irrelevant, and because it does not appear that there is any controversy about those horses.)

Ans. I never recovered them. Some of Fremont's party, or those who took the horses, said the government would pay for them, but it never did.

Ques. 7th. Was the place called Yokaya, in 1845, well known, and has it or not distinct or well-defined boundaries?

Ans. It was well known previous to that time; the name was given to it by the Indians. The boundaries were well known, but there was only one adjoining ranch, that of Fernando Feliz, called "Sanel."

Cross-examination.

Questions by acting U. S. att'y:

Ques. 8th. When you started to go to Yokaya, in 1845, the
120 first time, how did you find the place?

Ans. I had been at the place previous to establishing the ranch, but had never lived there before 1845.

Ques. 9. State the time you first went on the place, where you established the ranch in 1845?

Ans. In 1844 I went there with Carrillo, my brother, and others hunting, and also to get some Indians. Fernando Feliz was, at that time, on his ranch "Sanel."

Ques. 10th. How long did you stay there at that time with your brother?

Ans. About ten days in and about that section of country. Yokaya includes the whole valley of that name, and we were for those ten days in the valley and mountains around.

Ques. 11th. Did your brother Carrillo and yourself visit the valley at that time for any other purpose than hunting and procuring Indians, as you have stated?

Ans. In addition we wished to examine the country with a
121 view of finding a ranch. This was particularly the object of my brother Cayetano.

Ques. 12th. How long after that time did your brother petition for the ranch and obtain a grant, and was it before you went there in 1845 to establish the ranch, and if so, how long before?

Ans. I think my brother petitioned for the rancho about the same time I went there with the stock.

Ques. 13th. In answer to ques. 3, you state you know the grant was made to your brother. Do you know this from what your brother told you, or did you see the grant which he obtained?

Ans. I know from what my brother told me; I did not see the grant myself.

Ques. 14th. Do you know that your brother petitioned for the land from what he or others told you, or did you see the petition and map which he presented to the Mexican government?

Ans. My brother told me that he had petitioned for the ranch, and wanted me to go there and establish it for him, and I did so.

122 Ques. 15th. You have no knowledge then that your brother made a petition and received a grant from the Mexican government, except what he told you himself?

Ans. That is all. He told me he had petitioned for the land, and to go and take possession of it and establish a ranch, and afterwards he told me that he had obtained the grant.

Ques. 16th. From the time you first went there to establish the ranch, in 1845, and until the time you left it, in consequence of your difficulty with the Frémont party, was your brother Cayetano ever on the ranch himself?

Ans. My brother went with me when I went there to establish the ranch. I think he staid about eight days; left instructions with me, whom he left in possession of the ranch. My brother was there in the latter part of 1845; and again, after the horses were taken away, my brother went up to look after the cattle. My brother resided on his other ranch of two leagues, called "Tulucay," in Napa. I never saw his papers for the "Tulucay" either.

123 Ques. 17th. After the horses were taken away, you say your brother went up to look after the cattle; state how long he staid there at that time, and who he left in charge of the Yokaya ranch when he came away.

Ans. My brother staid there about three days; he found no cattle there; he left two vaquero Indians in charge of the ranch; they staid there about a month, and then came to Napa; they were Napa Indians.

Ques. 18th. After these Indians returned, no cattle having been left upon the ranch belonging to your brother, did your brother, after that time, send any more cattle up there, or go there himself; I mean, did he go back there with cattle, or did he send cattle in charge of any one else, between the time that these two Indians returned and the month of July, 1846?

Ans. My brother had lost all his cattle up there, and he was afraid to send more, the revolution not being completed, and I could not go there, because I was detained in San José, my wife being very ill there. It was in August, 1846, that my brother and myself

124 went there to look for the cattle. It must have been in the following September that the two vaquero Indians left the ranch. That whole region of country about Napa at that time was very much excited. It was about that time that old man Berreyesa was shot by one of the Frémont party.

Ques. 19th. After August or September, 1846, did your brother ever occupy the Yokaya ranch; and if so, when?

Ans. No, sir, he did not put any more cattle there. I was unwilling to stay there, and refused to do so. Tame Indians were left there, and in 1847 and 1848 I went up there to take beeves to the Indians, who would come down frequently to Napa, work for Cayetano Juarez, and return to Yokaya. The Indians at Yokaya continued to mark the fields which I established, and raised watermelons, corn, and beans; the seed was furnished by Cayetano Juarez, to keep them occupied on the rancho Yokaya, and keep the possession of the place. They were not baptized Christians, but they were docile, and vaquero Indians. The two Indians first spoken of were Christians.

125 Ques. 20th. How long, after 1846, has Cayetano Juarez claimed to own this rancho?

Ans. Until now. Whether he has sold it or not, I don't know.

VICENTE JUAREZ.

Sworn to and subscribed this 25th April, 1860, before me.

W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed Nov. 13, 1861.

W. H. CHEVERS, *Clerk.*

Dep. of Wm. B. Frazer.

In the district court of the United States for the northern district of California:

THE UNITED STATES *v.* CAYETANO JUAREZ. } In land cases, dist. court, No. 217; land com., No. 335.

Be it remembered that on this tenth day of August, A. D. 1861, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of

126 witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared William B. Frazer, a witness produced in behalf of the claimant in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: Judge Curry and J. J. Williams, esq., of counsel for claimant, and Wm. H. Sharp, esq., U. S. dist. att'y, for the United States.

Questions in behalf of the claimant.

Question 1st. What is your name, age, and place of residence?

Ans. My name is Wm. B. Frazer; my age is 38 years, and I reside on Martinez, Contra Costa county.

2nd. When did you first come to California?

Ans. In the spring of 1845 I came here from Oregon. I emigrated with Judge Burnett, in 1843, across the plains.

127 3. Are you acquainted with the rancho "Yokaya," claimed in this case, and situated in Mendocino county?

Ans. I was there in 1845, in the month of December; I was also there in 1846, in the month of March.

4. Was any one in possession and occupation of said rancho on the occasion of those two visits? if so, state who, and how it was occupied.

Ans. There was a Spaniard named Juarez there. There was a house and two places fenced, one a *corral*, and the other had the appearance of a garden. The garden had some stalks of corn and indications of melon vines in it—it was a small lot on the creek. There were horses and cattle on the ranch. I staid there all night, and Juarez appeared to be living there. There were some vaqueros there, and a number of Indians. This was on the occasion of my first visit in December, 1845. The vaqueros had their horses staked out.

5. State what you saw there on the occasion of your visit in 1846.

Ans. On my visit, in 1846, I did not stop at Juarez. I saw

128 horses and cattle in the valley. I saw the same houses that I did in 1845. I also saw a number of Indian huts on the place.

6. Do you know whether or not Frémont's party, or the Bear Flag party, obtained any horses from this rancho during the war?

Ans. I do not, personally. I left here in command of a company of emigrants in 1846, for Oregon.

7. Have you any reason for believing since your return from, or before you went to Oregon, that such was the case?

(Objected to as incompetent, because designed to elicit from the witness information derived from third parties, the witness having expressly declared that he knows nothing on the subject of his own knowledge.)

Ans. I have not.

8. Did you learn any facts while in Oregon that induced you to believe such was the case?

(Same objection as the last.)

129 Ans. I cannot say that I believed it, but so I heard. I understood through other parties that the horses were taken from Yokayo.

9. As a member of the grand jury in your county, did you not, a short time ago, serve a subpœna on Vicente Juarez to appear as a witness?

Ans. I did.

10. Was that the same Juarez you saw upon the rancho Yokayo in 1845?

Ans. I believe it was.

Cross-examination.—Questions by counsel for the U. S.

Ques. 11. In your answer to ques. 3rd you state you were on the rancho Yokayo in 1845 and 1846; state the boundaries of that rancho.

Ans. I do not know the boundaries of that rancho.

12. How do you know then that you were on that rancho in 1845 and 1846?

130 Ans. It was called that by the citizens of Bodega.

13. What was called that—what extent of country?

Ans. I cannot say the amount of country.

14. Cannot you describe in some manner the country that was called rancho Yokayo by the citizens of Bodega?

Ans. It was the valley on the west side of the Russian river. It is so long since I have been there, having never been there since 1846, that I don't think I could give the exact description of the valley.

15. You say you saw Vicente Juarez and some vaqueros in that valley in 1845, at that time could you speak the Spanish language; and if you could, did you have any conversation with Juarez?

Ans. I spoke the Spanish language but very little, enough to merely pass the time of day, and ask at the house in a broken manner for anything I wanted. I had no conversation on any other subject.

131 16. Do you know the boundaries of the Yokayo rancho, as now claimed?

Ans. I do not.

17. I gather then from your testimony that in 1845 and 1846 you visited, for a short time, a tract of country known to the citizens of Bodega as Yokayo; that you there saw a man named Juarez, whom you believe to be the same man on whom you served a subpœna not long since, under the name of Vicente Juarez, but that you have no knowledge of the boundaries of the rancho claimed in this case, nor whether the said Juarez was at the said time within those boundaries, or that said Juarez was living there as the owner of the land. Am I correct?

(Objected to, as involved and defective in form, and because it purports to be a summary of the witness's evidence, and because the witness has not testified as there narrated.)

Ans. I know that Juarez lived within the boundaries of the tract called Yokayo valley, with the qualification you are correct.

132 18. I must ask you explicitly whether your last answer refers to the boundaries of the tract you have stated was called the tract of Yokayo by the citizens of Bodega, or to the boundaries of the rancho Yokayo, as claimed in this case?

Ans. I know nothing of the boundaries of the Yokayo ranch as claimed in this case. I learned from Juarez himself, at the time, that the tract was called Yokayo valley. When I arrived at the place first, I asked if this was the Yokayo ranch, and Juarez told me that it was.

19. How did you learn that there was such a ranch as the Yokayo rancho, before making the enquiry mentioned in the last answer?

Ans. By parties who lived in the Bodega country.

20. How long before your visit did you learn this?

Ans. I cannot tell the exact time, between three and four months. I learned it from one Manuel Torres, George C. Yount, James Black, Wright, and Dickinson.

133 *Direct examination resumed.*

Questions by counsel for claimant:

Ques. 21. State whether you were enquiring for a place for yourself, when you learned from Torres and others that there was such a ranch as Yokayo.

(Objected to as leading.)

Ans. I learned that there was such a valley as Yokayo valley, and by one Juarez living in the valley. I was enquiring for a place for myself in different portions of the country. They told me of the Yokayo rancho and the valley of the Russian river.

22. State whether or not the Russian river ran through Yokayo valley, and if so, its situation in said valley.

Ans. It runs through the eastern side of said valley. To my best knowledge the course of the Russian river was from north to south.

23. State whether or not Yokaya valley was at that time generally known by that name?

Ans. It was about Bodega and Sonoma.

WILLIAM B. FRAZER.

134 Sworn to and subscribed August 10, 1861, before me—

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Nov. 13, 1861.

W. H. CHEVERS, *Clerk.*

Affidavit and petition.

In the district court of the United States in and for the northern district of California.

CAYETANO JUAREZ
vs.
THE UNITED STATES.

John Currey, being duly sworn, doth depose and say that he and S. Clinton Hastings claim to be the owners of the tract of land claimed in the above case, called "Yocaya," as the successors in interest thereto of the above named Cayetano Juarez. And deponent further says that in the summer of 1859 he purchased one undivided half of said tract of land of said Hastings, and that his purchase was completed in November of the same year by a deed of conveyance made by said Hastings to this deponent for one undivided half of said tract of land; that deponent paid a large sum of money for the in-

135 terest by him so purchased in good faith, and with the full belief that said claim was genuine, and that the title to said

tract of land was valid and just. And deponent further says that at the time of said purchase and the payment of the consideration for the interest in said land by him so purchased, and when he obtained the deed therefor, he believed the document on file, among the papers of the late United States land commission in the office of the surveyor general of the United States for the State of California, purporting to be a grant of said tract of land, was duly signed by Pio Pico, the governor of the Californias, in May, 1845, and was in every particular a genuine grant for said tract of land; that deponent never heard the genuineness of said document doubted or questioned, until several months after the date of the completion of deponent's said purchase and payment of the consideration money therefore.

That at that time deponent was unacquainted with the signature of said Pio Pico or the signature of Bandini, the secretary. That deponent relied on the testimony of witnesses and information of persons possessing to know the signatures of said Pico and Bandini, and
136 on the documentary evidence preserved among the archives of the former government, in the office of said surveyor general, in relation to and effecting the title and claim of said Juarez to said tract of land. And deponent says he does not know whether the said document, purporting to be a grant signed by Pio Pico and Bandini, is genuine or otherwise, but that several credible and highly respectable persons have testified to its genuineness, while other persons of high and respectable character have expressed their opinion that the same is not genuine.

But deponent deposes and says: if said document is not genuine he is in nowise or manner at fault for its introduction in evidence. That said document was in evidence in said case long before deponent had anything to do with or had any interest in said case.

And deponent says he has not desired and does not now desire to support said claim by any evidence that is not true in substance and in fact.

And deponent further says that since he heard of doubts suggested as to the genuineness of said document, he has made diligent inquiries
137 and investigations in order to find the genuine grant issued in said case, and has inquired of all persons who would be likely to have the grant for said land, or to have any information or knowledge respecting it, and has also made inquiry and search for such grant at the archives of said former government, now in the custody of said surveyor general, but that deponent has been unable to discover or find such grant; and that, unless the document aforesaid, purporting to be the grant in said case, is genuine, the genuine grant issued must be lost or destroyed, and is beyond either the power, control, or discovery of this deponent. And deponent further says he verily believes that a grant was duly issued to the said Juarez for said land, because he says that the archives of the Mexican government, in the possession of said surveyor general of the United States, namely, the volume known as the "Toma de Razon," and the endorsement of the proceedings of the departmental assembly on the expediente in the case, and also the proceedings which appear

in the original records of said departmental assembly, bear testimony,
and show that a grant was issued to the said Cayetano Juarez
138 for the land in question.

And deponent further says that he is informed and believes that no doubt or question has been suggested in relation to the other documentary evidence than the said document purporting to be a grant to said Juarez of said tract of land; but on the contrary, deponent has been informed by Mr. Hopkins, the keeper of the archives, and others familiar with the records in said archives, that there is no doubt of the genuineness of such other documentary evidence.

And deponent further deposes and says he is informed and believes that said Hastings purchased said tract of land, at a sale thereof made on behalf of the estate of Ebenezer Knight, deceased, some time in the month of March, 1859, at the price of thirty thousand ($30,000) dollars, or about that sum; that he believes said Hastings purchased in good faith, without any suspicion of the genuineness of the title to said tract of land.

And deponent further says that by evidence on file in said case
before the said board of land commissioners, and which
139 evidence is before this court, and which deponent believes to
be true, and has relied on as true, it appears that on the sixteenth day of August, A. D. 1852, the said Cayetano Juarez conveyed by deed said tract of land to Mariano G. Vallejo, who on the same day conveyed the same tract of land by deed to the said Ebenezer Knight, then in the lifetime of said Knight.

And deponent says he has prosecuted said claim in good faith, with the full belief that it ought to be confirmed, and still believes said claim is equitable and just.

And deponent says he is willing, and hereby offers, to appear before this honorable court and subject himself to an examination in respect to the matters connected with this case and his own relations therewith, at such time as the court may deem proper.

And further deponent says he desires, and therefore prays, that he and the said Hastings may be substituted by the order of this court in the place and stead of said Juarez, as claimants in the above case,
and that said claim may be confirmed to the present claimants
140 of said tract of land.

JOHN CURREY.

[SEAL.] Subscribed and sworn to before me this 5 Dec'r, 1861.

BLAIR LAURIE, *Notary Public.*

Endorsed: Filed Dec. 6, 1861.

W. H. CHEVERS, *Clerk.*

Affidavit of S. C. Hastings.

In the district court of the United States in and for the northern district of California.

CAYETANO JUAREZ
vs.
THE UNITED STATES.

S. Clinton Hastings, being duly sworn, doth depose and say that he is one of the claimants of the tract of land called "Yokaya," for the confirmation of which the above entitled suit has been and is prosecuted. That deponent purchased said tract of land in the month of March, 1859, at a sale thereof made on behalf of the estate of Ebenezer Knight, deceased, for the price of thirty
141 thousand dollars. And deponent further deposes and says that he was then and still is informed and believes that on or about the sixteenth day of August, 1852, the above named Cayetano Juarez conveyed by deed, duly executed and delivered, said tract of land to Mariano G. Vallejo, who on the same day conveyed by deed, duly executed and delivered, the same tract of land to the said Ebenezer Knight, then in the lifetime of said Knight; that said deeds are now on file with the evidence in this case duly acknowledged and proved. And deponent further deposes and says that some time after he had purchased said tract of land as aforesaid he sold and conveyed by deed the one undivided half of said tract of land to John Currey, who is now one of the claimants to said tract of land, and that this deponent and the said Currey claim to own said tract of land by purchase thereof, as aforesaid, for a large and valuable consideration by them paid therefor.

And this deponent further deposes and says he made the purchase aforesaid in good faith, and paid for said tract of land a large sum of money, and had not any doubt or suspicion on his part of the
142 genuineness and validity of the title to said tract of land, but that he believed that the document in evidence purporting to be the *titulo* or grant of said tract of land was genuine, and was duly signed by Pio Pico, while acting as governor of the Californias, in May, 1845, and by the secretary of state, Bandini, and never heard the same doubted or questioned until long after he had sold and conveyed the one undivided half of said tract of land to said Currey.

And deponent further deposes and says that at the time of his said purchase, and also at the time he conveyed as aforesaid to said Currey, he was unacquainted with the handwriting of said Pico, or of said Bandini, and relied upon the evidence and opinions of others in relation thereto and on the documentary evidence in the archives of the former government, in the office of the surveyor general of the United States for the State of California, relating to the title and claim of said Juarez to said tract of land.

And deponent further deposes and says he does not now
143 know whether the paper purporting to be the *titulo* in evidence in this case is genuine or not, but if it is not genuine

he does not wish to rely upon it in support of said claim; that said paper was in evidence before deponent made his purchase, and that deponent at that time supposed it was genuine; that if it is not genuine this deponent is not chargeable with any wrong because of its introduction in evidence.

And deponent further deposes and says that since he heard doubts expressed respecting the authenticity and genuineness of said *titulo* or grant he has endeavored, in conjunction with said Currey, to discover and find the genuine grant issued to the said Juarez, and to that end has, with said Currey, made inquiries of all such persons as they suspected might have the genuine title deed or grant issued, (if the titulo or grant in evidence is not authentic,) but that deponent has been unable, after very diligent inquiry and search, to discover any other paper or document purporting to be the grant to said Juarez of said tract of land; and deponent says that if said titulo or grant now in evidence is not authentic and genuine then he
144 verily believes the true and genuine grant for said land is lost; and deponent deposes and says he has no doubt whatever that a grant was duly issued by said Pio Pico to said Juarez, because the archives of the Mexican government, in the possession of said surveyor general, contain evidence which deponent believes to be incontrovertible, establishing the fact that a grant or titulo was duly issued in said case.

And deponent further deposes and says that he has aided in the prosecution of this case in good faith, believing the claim aforesaid to said tract of land to be just and equitable, and he still so believes.

And deponent says he is willing to submit himself to an examination in court by the court or by the counsel for the government, in respect to the matters hereinbefore mentioned, or any other matters relating thereto. And deponent further says he desires, and therefore he prays, that he and the said Curry may be substituted by the order of this court in the place and stead of said
145 Juarez, as the claimants in the above case, and that said claim may be confirmed to the present claimants of said tract of land.

S. CLINTON HASTINGS.

Subscribed and sworn to before me this 4 day of December, A. D. 1861.

[SEAL.]

BLAIR LAURIE,
Notary Public.

Endorsed: Filed Dec. 6, 1861.

W. H. CHEVERS, *Clerk.*

Copy of decree of foreclosure, etc.

District court 7th judicial district, State of California, county of Sonoma.

EBENEZER KNIGHT
vs.
BETHUEL PHELPS.

The complaint of the above-named plaintiff respectfully shows to this court that the defendant, on or about the twelfth day of August, 1852, being desirous of purchasing a certain piece or parcel of land, partly situated in the county of Sonoma and partly in the county of Mendocino, and known as the Rancho de Yo-
146 caya, containing eight leagues of land, more or less, borrowed of the plaintiff the sum of eight thousand dollars, to be applied towards the purchase thereof; and agreed with the plaintiff, by an instrument of writing, signed by the defendant and dated the day and year last aforesaid, that the title of said tract of land should be taken in the name of the plaintiff as security for the loan of the eight thousand dollars for the term of five months, at the rate of five per cent. per month, a copy of which instrument of writing is hereto annexed, which plaintiff prays may be taken as a part of this his complaint.

And the plaintiff further shows that afterwards, on or about the sixteenth day of August, 1852, the said defendant completed the purchase of the said tract of land, and on the day and year last aforesaid caused a deed to be made for the same by Mariano G. Vallejo to the plaintiff, a copy of which is annexed hereto, and which plaintiff prays may be taken as part of this his said complaint.

And the plaintiff further shows that the said deed was
147 duly acknowledged and certified, so as to entitle it to be recorded, and the same was afterwards duly recorded in the office of the county recorder of Sonoma county, on the tenth day of September, 1852.

And the plaintiff further shows that, on the seventeenth day of August, 1852, the defendant made his promissory note, in writing, for eight thousand dollars, whereby he promised to pay to the order of the plaintiff, three months after the date thereof, the said sum of eight thousand dollars, with interest, at the rate of five per cent. a month from date; and then and there delivered the same to the plaintiff as further evidence of his said indebtedness; and also delivered to him the said last-mentioned deed as security for the payment of the said promissory note, a copy of which said promissory note is annexed hereto, and which plaintiff prays may be taken as part of this his complaint.

And the said plaintiff further shows that the said defendant has failed to pay the said sum of eight thousand dollars, which became due on the twelfth day of January, 1853; and that there
148 is now justly due to the plaintiff the sum of eight thousand dollars, with interest thereon from the twelfth day of August, 1852, at the rate of five per centum per month.

The plaintiff therefore prays that the defendant and all persons claiming under him may be barred and foreclosed of all right, claim, lien, and equity of redemption in the said tract of land; that the said tract of land may be decreed to be sold according to law; that the moneys arising from the sale may be brought into court; that the plaintiff may be paid the said sum of eight thousand dollars due by the said defendant, with interest to the time of such payment, and the costs and expenses of this action, so far as the amount of such moneys properly applicable thereto will pay the same, and that the defendant may be adjudged to pay any deficiency which may remain after applying all of said moneys so applicable thereto; and that the plaintiff may have such other or further relief, or both, in the premises as shall be just and quitable.

McALLISTER, SMITH, and ROSE,
For Pl'ff.

149 Office in Howard's buildings, San Francisco.

COUNTY OF SAN FRANCISCO, *ss:*

Ebenezer Knight, the above-named plaintiff, being duly sworn, says that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters that he believes it to be true.

E. KNIGHT.

Sworn before me this seventh day of June, 1853.
[L. S.] THOMAS A. LYNCH,
Notary Public.

The undersigned acknowledges the receipt of a letter of credit for $8,000 from E. Knight, esq., the nature of which is as follows: He is to purchase of Mr. Vallejo a ranch called the Yokaya, on Russian river, the title deeds of which is to be in the name of said Knight, as security for the loan of the said $8,000 for the term of five months, at the rate of 5 per cent. per month. And as additional security
150 the said Phelps agrees to give a mortgage to said Knight on lots Nos. 9, 13, 14, in block 73, in Benicia, and 3 and 7, in block 74; and in case of non-fulfilment in giving said security, he acknowledges this a debt that may be sued for and recovered as though it were a note of hand.

SAN FRANCISCO, *Aug.* 12, 1852.
(Signed) BETHUEL PHELPS.
Witness: G. W. P. BISSELL.

Know all men by these presents that I, Mariano G. Vallejo, of the city and county of Sonoma and State of California, in consideration of the sum of eight thousand dollars in hand paid to me by E. Knight, of San Francisco county, State of California, the receipt of which I hereby acknowledge, and for the sum of two thousand dollars secured to be paid on the within described premises, the same being

hereby pledged therefor, on the final confirmation of the original claim or grant to the rancho Yocayo, hereinafter conveyed, and for the further sum of one thousand dollars, secured to be paid upon the within described premises, pledged as aforesaid, one year after the final confirmation, and for the further sum of one thousand
151 dollars, secured to be paid on the within described premises, pledged as aforesaid, two years after the final confirmation, do hereby bargain, sell, and convey unto the said E. Knight, his heirs and assigns forever, all my right, title, interest, claim, and demand in law and equity, in and to a certain piece or parcel of land, partly situated in said county of Sonoma and partly in the county of Mendocino, and known as the rancho de Yocayo, containing eight leagues of land, more or less, conveyed by Cayetano Juarez and wife to me by deed, dated August sixteenth, A. D. eighteen hundred and fifty-two, and recorded in Sonoma city and county.

In witness whereof, I have hereunto signed my name and affixed my seal this the sixteenth day of August, in the year of our Lord one thousand eight hundred and fifty-two.

(Signed) M. G. VALLEJO. [L. S.]

Witness: JOHN B. FRISBIE.

STATE OF CALIFORNIA,
Sonoma County.

On this ninth day of September, eighteen hundred and fifty-two, personally appeared before me the above-named Mariano G.
152 Vallejo, to me known to be the person named and described in the foregoing instrument, and who executed the same and acknowledged that the same was executed as his own free act and deed for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and private seal, having no official seal, this ninth day of September, A. D. 1852.

[L. S.] JOHN B. FRISBIE,
Notary Public.

SAN FRANCISCO, *Aug.* 17*th*, 1852.
$8,000.

Three months after date, for value received, I promise to pay to E. Knight, esq., or order, the sum of $8,000, eight thousand dollars with interest at the rate of five per cent. a month from date. Should this obligation not be redeemed at the expiration of the aforesaid three months, it is agreed that the interest from and after that date shall be paid monthly in advance.

(Signed) BETHUEL PHELPS.

Witness: G. W. P. BISSELL.

153 STATE OF CALIFORNIA,
County of Sonoma, ss:

I, Frank W. Shattuck, clerk of said county and ex officio clerk of the district court of the seventh judicial district in and for said county, do hereby certify that the foregoing is a copy of the complaint and

the instruments in writing referred in said complaint, filed in the action of Ebenezer Knight, plaintiff, against Bethuel Phelps, defendant, in said district court in said county, on the ninth day of June, A. D. 1853, and the whole of such original complaint and instruments of writing therein referred to as a part of said complaint.

In witness whereof, I have hereunto set my hand and affixed the seal of said district court the 21st day of November, A. D. 1859.

[SEAL.] FRANK W. SHATTUCK, *Clerk*,
By JAMES A. REYNOLDS, *Deputy*.

In the district court of the seventh judicial district of the State of California in and for the county of Sonoma.

CARLILE P. PATTERSON, administrator of the estate of Ebenezer Knight, deceased,
vs.
BETHUEL PHELPS.

154 And now by leave of the court comes Bethuel Phelps, the above-named defendant, by John Currey, his attorney, and answering to the complaint filed in this action by Ebenezer Knight, in his lifetime says, that he, the defendant, admits as true, at the filing of said complaint, each and every allegation in the stating part of said complaint contained.

And the said defendant, further answering, says the plaintiff ought not to have and maintain said action further against the defendant, because he says that after said action was commenced, and after the decease of said Knight, to wit, on the fifteenth day November, in the year eighteen hundred and fifty-three, the defendant, for the purpose of paying the indebtedness mentioned in said complaint, transferred and delivered to the said Carlile P. Patterson, as the administrator of said estate, two certain promissory notes, which were the property of the defendant, made by Mowry W. Smith and Jesse Potter, payable to the order of Henry A. Breed and Benj. W. Mudge, and by the said Breed and the said Mudge duly endorsed and delivered to the defendant, which notes were dated the 18th day of August,
155 1853, and were each in the sum of ten thousand dollars, and each was payable as aforesaid to the order of the said Henry A. Breed and Benj. W. Mudge, on the first day of December, eighteen hundred and fifty-three, and each of which notes, the defendant is informed and believes, was then and still is in the words and figures following, that is to say:

"SAN FRANCISCO, *Aug. 18th*, 1853.

$10,000. On the first day of December next, for value received, we jointly and severally promise to pay to the order of Henry A. Breed and Benj. W. Mudge ten thousand dollars, and if not paid at

maturity therewith interest at the rate of five per cent. per month from next December until paid.

MOWRY W. SMITH.
JESSE POTTER."

Which said notes were severally endorsed in blank by the said H. A. Breed and B. W. Mudge, respectively, and for a valuable consideration at the date thereof delivered to the defendant.

And the defendant further says that at the time of the transfer and delivery of said notes by the defendant to the plaintiff as aforesaid the same were so transferred and delivered by the defendant, and were by plaintiff accepted and received of defendant as a means of payment to plaintiff of the indebtedness mentioned in said complaint; and the defendant says that plaintiff, in consideration of such transfer and delivery of said notes to said plaintiff, then to wit: on said fifteenth day of November, eighteen hundred and fifty-three, executed, signed, and delivered to the defendant an agreement in writing in the words and figures following:

"Received, San Francisco, November 15, 1853, of Bethuel Phelps, two certain promissory notes, signed by Mowry W. Smith and Jesse Potter, payable to the order of and endorsed by H. A. Breed and B. W. Mudge, dated Aug. 18, 1853, payable on the 1st day of December, 1853, for the sum of ten thousand dollars each, making twenty thousand dollars in the whole. Said notes are received as collateral to the payment of an indebtedness from Bethuel Phelps to the estate of Ebenezer Knight; said indebtedness with interest up to Dec. 1, 1853, is twelve thousand nine hundred and seventy-eight dollars, and sixty-seven cents, ($12,978\frac{67}{100}$,) besides the costs of suit brought by said Knight in his lifetime against said Phelps, in Sonoma county. On said sum of twelve thousand nine hundred and seventy-eight $\frac{67}{100}$ dollars, the said estate of said Knight is to receive the benefit of the interest which is expressed in said notes, should they not be paid at maturity, but the balance between said Knight's account of $\$12,978\frac{67}{100}$ and the said note being $\$7,021\frac{33}{100}$, is to be returned to said Phelps with interest such as may be collected thereon.

"And I, Carlile P. Patterson, administrator to the said Knight's estate, agree, upon the full payment of said debt and costs due by said Phelps, to convey to the said Phelps the "Yocaya" rancho which was deeded to said Knight by said Phelps' direction, as security for said indebtedness, and I further agree to discharge a mortgage which was given to said Knight on certain lots in Benicia, as additional security at the time said indebtedness was created.

CARLILE P. PATTERSON."

And the defendant further says that on the first day of December, eighteen hundred and fifty-three, the amount due from defendant to the estate of said Knight was the sum of twelve thousand nine hundred and seventy-eight dollars and sixty-seven cents, the same being the principal and interest of the promissory

note mentioned in the said complaint, and the costs of said action, which at that time did not exceed fifty dollars; which sum of money, to be due on said promissory note mentioned in said complaint on the day and year last aforesaid, it was understood and agreed by and between said plaintiff and said defendant, at the time of the execution and delivery by plaintiff of the agreement, a copy of which is hereinbefore set forth, was to be received and recovered by the plaintiff from the said parties to said promissory notes transferred and delivered as aforesaid to the plaintiff, and to be by the plaintiff applied to the payment and liquidation of said sum of twelve thousand nine hundred and seventy-eight dollars and sixty-seven cents, the same being the indebtedness mentioned in said complaint which
159 would be due on the said first day of December, eighteen hundred and fifty-three, and the balance of said two promissory notes, so transferred and delivered as aforesaid, to wit: the sum of seven thousand and twenty-one dollars and thirty-three cents which should remain after the payment of the said indebtedness of defendant; the plaintiff, at the same time, to wit: on the said fifteenth day of November, also agreed and undertook to collect of the parties to said promissory notes transferred and delivered to him as aforesaid by said defendant, and to pay or return the same to the defendant with such interest as might be collected thereon.

And the defendant further says that said promissory notes, made by said Smith and Potter, and endorsed by said Breed and Mudge, as aforesaid, were transferred and delivered as aforesaid, before the same or either of them became due, and that at the time said last mentioned notes became due and payable they were held by, and were entirely under the control and custody of, the plaintiff.

And the defendant further says that he is informed and believes, and upon such information and belief he charges the truth to
160 be, that when said last mentioned notes became due and payable, according to the tenor and effect thereof, the plaintiff did not, nor did any one in his behalf, present, or make any effort to present, said notes, or either of them, to the makers, or to either of the makers, of the same for payment, nor did the plaintiff, or any one in his behalf, cause due notice to be given to said endorsers of said notes, or to either of them, of any non-payment or dishonor of said notes, or either of them; nor did the plaintiff, or any one in his behalf, do any act or thing to render said endorsers, or either of them, liable as endorsers of said notes, when said notes became due and payable, or in due time thereafter.

And the defendant further says that he is informed and believes, that a long time after said notes became due, to wit: ninety days thereafter, the plaintiff procured the endorser thereof, Benj. W. Mudge, to write something over his name upon said notes, which plaintiff now pretends amounted to a waiver by him of due presentment of said notes to the makers of the same, and of notice of the non-payment thereof at their maturity; but the defendant
161 says he is informed and believes that such writing, so made by said Mudge, did not amount to a waiver by him of due and

proper presentment of said notes to the said makers of the same for payment.

And the defendant further says that he is informed and believes that at the time the said Mudge made said writing over his name as aforesaid, on said notes, the said plaintiff agreed to and with said Mudge, that in consideration thereof, and in consideration that he, said Mudge, would pay plaintiff the sum of two thousand dollars on one of said notes, he, the plaintiff, would not call upon the said Mudge, for any further payment on said notes, or either of them, for a long time thereafter, and the defendant says he is informed and believes that said Mudge did then, in consideration of the said last-mentioned agreement of said plaintiff, pay plaintiff two thousand dollars, as aforesaid.

And the defendant further says that he is informed and believes, and he therefore charges the truth to be, that when said notes became due as aforesaid, and for some time, to wit: for the space
162 of four months thereafter, the said Smith and Potter, and the said Breed and Mudge, or some one or more of them, were able to pay and could have paid said notes, or so much thereof as would have been necessary to discharge the indebtedness of the defendant to the estate of said Knight, and the costs that had then accrued in said action, if due and reasonable care and diligence had been taken, employed, and used by the plaintiff, or on his part, to render the said endorsers liable and responsible as endorsers of said notes, and if proper and reasonable care, and diligence, and means had been employed and used on the part of plaintiff to collect the monies due on said notes, but the defendant says the plaintiff, disregarding his duty and obligations in the premises, wholly neglected and omitted to call upon the said makers of said notes, or either of them, for the payment of said notes, or either of them, when the same became due and payable, according to the tenor and effect thereof, or at any time thereafter; and also the plaintiff wholly neglected and omitted to do any act or thing to render the
163 endorsers liable upon said notes, or either of them, or to fix and secure the liability and responsibility of said endorsers to pay the amount due upon said notes, or either of them, as endorsers thereof.

And the defendant further says that ever since said notes were transferred and delivered by the defendant to the plaintiff as aforesaid, for the purpose aforesaid, the plaintiff has held and had the possession and entire control of said notes, and still holds and has the possession and entire control of the same.

And the defendant further says that since said notes became due and payable as aforesaid, and since the amount thereof, sufficient to pay and liquidate the indebtedness which was due said estate from defendant on the first day of December, eighteen hundred and fifty-three, could and ought to have been collected and received by the plaintiff on said notes, the said Mowry W. Smith has become so greatly embarrassed and involved in his circumstances and affairs as to be unable to pay said notes, or either of them ; and the defendant

says he is informed and believes said Smith has become and is
164 quite insolvent and unable to pay his debts; and the defendant says that he is informed and believes that since said notes became due as aforesaid, the said Potter has died, leaving his estate insolvent, or so nearly insolvent, that said notes or either of them could not, at any time since the death of said Potter, have been or be collected of or from his estate.

And the defendant also says that since said notes became due and payable as aforesaid, and since the amount thereof sufficient to pay and satisfy the indebtedness due from defendant to the said estate of said Knight, deceased, on the first day of December, in the year eighteen hundred and fifty-three, could and ought to have been collected and received by the plaintiff on said notes, the said Henry A. Breed has become insolvent and unable to pay his just debts, and that some time heretofore, but at what precise time defendant is not informed, and cannot state, but long since the day and year last aforesaid, the said Breed made application to a court of competent jurisdiction for a discharge from his debts, under and in pur-
165 suance of the provisions of an act of the legisiature of said State, entitled "An act for the relief of insolvent debtors and protection of creditors," and has obtained such discharge from his debts. And the defendant also says that he is informed and believes that said Mudge, for a long space of time, to wit, for the period of eighteen months last past, has been and still is in embarrassed and insolvent circumstances, and unable to pay his just debts, and wholly unable to pay said notes, or either of them; besides the insolvency and inability of the said Breed and Mudge, or either of them, to pay said notes, or either of them, the defendant says he is informed and believes, and upon such information and belief, he alleges the truth to be that the said Breed and Mudge were severally discharged from all liability on said notes as endorsers thereof, because of the omission of the plaintiff to have said notes duly presented to the makers thereof for payment at the maturity of said promissory notes, and due notice thereof given to the said endorsers.

166 And the defendant further says that by reason of the laches and negligence aforesaid of the plaintiff, and on his part, the amount due on said notes has been lost, and the defendant, because of such laches, negligences, and omissions of the plaintiff, which defendant alleges have been gross and inexcusable, has lost the amount due by said notes, which, by said written agreement hereinbefore set forth was specified to be paid on the debt therein mentioned as owing by the defendant to the estate of said Knight, deceased, and which was the same debt mentioned in said complaint, excepting only the said sum of two thousand dollars paid as aforesaid by said Mudge to the plaintiff; and also by reason of such laches and negligences and omissions the defendant has lost the said sum of seven thousand and twenty-one dollars and thirty-three cents, which became due on said notes to the defendant on said first day of December, eighteen hundred and fifty-three, as the balance which remained after deducting from said amount due by said notes the sum of twelve thou-

167 sand nine hundred and seventy-eight dollars and sixty-seven cents.

And the defendant further says that notwithstanding the said laches, negligences, and omissions of the plaintiff, the plaintiff claims and pretends that said action should proceed against this defendant, and that the plaintiff should have and obtain from this court the judgment and decree for which the plaintiff in said complaint prayed at the time of the filing thereof, and the plaintiff is persisting in such claim and urging said action against this defendant, all which actings and doings and pretences of the plaintiff the defendant believes and alleges are contrary to equity and good conscience, and tend to the injury and oppression of the defendant.

In consideration whereof, and of the premises, the defendant prays the aid of this honorable court in the premises, and prays that this court will, upon the hearing of this action, order, adjudge, and decree that the plaintiff credit upon the debt or demand mentioned in the said complaint, and also in said written agreement, as due and owing by the defendant to the said Ebenezer Knight in his lifetime, and after his death to the estate of said Knight, deceased, full
168 payment and satisfaction thereof; and also that plaintiff give to the defendant a receipt and discharge of and from the costs of said action which had accrued at the date of said written agreement, and also that it may be ordered and adjudged and decreed that the promissory note given by said defendant to said Knight in his lifetime, a copy of which is set forth with said complaint, be delivered up by plaintiff to the defendant; and also that plaintiff execute, acknowledge, and deliver to the defendant a proper deed of conveyance of the said tract of land called the Yocaya rancho, mentioned in said complaint and in said written agreement; and also that plaintiff execute, acknowledge, and deliver to the defendant a satisfaction of the mortgage which the defendant gave to said Knight in his lifetime on certain lots in Benicia, in Solano county, as additional security for said indebtedness mentioned in said complaint, reference to which mortgage is made in said written agreement; and also the defendant prays for such other or further relief, or both, in the premises, as the nature of the case may require, and as shall be agreeable
169 to equity and good conscience.

JOHN CURREY,
Att'y for Def't.

STATE OF CALIFORNIA,
County of Sonoma, ss:

Bethuel Phelps, the above-named defendant, being duly sworn, deposes and says that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters he believes it to be true.

BETHUEL PHELPS. [SEAL.]

Sworn and subscribed to before me this 27th day of December, 1855,
[SEAL.] as witness my hand and official seal said day and year, at the county and State aforesaid.

C. DICKINSON, *Notary Public.*

STATE OF CALIFORNIA,
County of Sonoma:

I, Frank W. Shattuck, clerk of Sonoma county, and ex officio
170 clerk of the district court of the 7th judicial district, county and State aforesaid, do hereby certify that the above and foregoing is a full, true, and correct copy of an original answer in the within entitled cause now on file in my office.

In witness whereof, I have hereunto set my hand and affixed the
[SEAL.] seal of the district court of the 7th judicial district, county and State aforesaid, this 25th day of November, A. D. 1859.

FRANK W. SHATTUCK, *Clerk,*
By WM. H. CROWELL, *Dep'y Clerk.*

Endorsed: Filed Dec. 29th, 1855.

N. McMENEFEE, *Clerk,*
By JOEL MULLER, *Deputy.*

STATE OF CALIFORNIA,
County of Sonoma, ss:

I, Frank W. Shattuck, county clerk of the county of Sonoma, and ex officio clerk of the district court of the seventh judicial district of the State of California, in and for said county, having in my
171 charge and custody all the records of said court, do hereby certify that, as appears from such records, on the 21st day of November, A. D. 1854, at a term of the district court aforesaid, held in said county of Sonoma, in a certain action then depending in said district court, in said county, wherein Ebenezer Knight was plaintiff and Bethuel Phelps was defendant, the said district court made an order which is in the words and figures following, that is to say:

EBENEZER KNIGHT }
vs.
BETHUEL PHELPS. }

Now comes Carlile P. Patterson, by his attorney, Sidney V. Smith, and respectfully shows that the above action was commenced in this court on the 9th day of June, 1853; that a summons was issued on said day, and was returned, served on the defendant, and filed on the 9th day of July, 1853; that the default of the defendant was entered in said action on the 31st day of August, A. D. 1853; that the above-named plaintiff departed this life in the city of San Francisco on the 11th day of October, 1853, and that on proper proceedings
172 being had for the purpose in the probate court of the county of San Francisco, Carlile P. Patterson, upon petition, was duly appointed administrator of the estate of said Ebenezer Knight, and

that letters of administration were duly issued to said Patterson by said probate court on the 31st day of October, 1853. Whereupon said petitioner, Carlile P. Patterson, prays that an order may be made in the above action that said action may be continued by him, said Patterson, as administrator of said estate.

Whereupon the court makes the following order, to wit: That the above action be continued by the said Carlile P. Patterson, administrator of the estate of Ebenezer Knight, deceased.

In testimony whereof, I have hereunto set my hand and affixed the [SEAL.] seal of said district court at my office in said county of Sonoma, the 21st day of November, A. D. 1859.

FRANK W. SHATTUCK, *Clerk*,
By JAMES A. REYNOLDS, *Deputy*.

173 CARLILE P. PATTERSON, administrator, &c., *vs.* BETHNEL PHELPS. } District court, 7th judicial district.

It is hereby stipulated and agreed that the above action shall be referred to Thompson Campbell, esq., of the city of San Francisco, to hear the evidence, try the issues, and report a judgment thereon. It is further agreed that said referee, in making up his report of judgment, shall therein make reference to the evidence taken as the evidence upon which he has founded the conclusions to which he may have arrived, and shall annex all such evidence to his report, and that it shall be deemed a part thereof. It is further agreed that the time for the commencement of the trial of said action shall be fixed by said referee, and that the trial shall continue without delay until the same is finally concluded.

It is further agreed that all depositions heretofore taken, or hereafter to be taken by either party in said action, may be read and used by either party on the trial, and without recalling the witnesses again, though they may be in the county. The referee to have
174 the same powers and rights to pass upon and decide all questions of law and fact as the court would have had if the said action had been tried by the court.

Dated San Francisco, July 30, 1856.

JOHN CURREY, *Attorney for Defendant.*
SIDNEY V. SMITH, *for Pl'ff.*

It is hereby ordered, in accordance with foregoing stipulation, that the within named action be referred to Thompson Campbell, esq'r., of the city and county of San Francisco, to try and determine the issues in said action, and report thereon a judgment as provided in said stipulation.

September 26th, 1856.

(Signed) E. W. McKINSTRY, *Dist. Judge.*

CARLILE P. PATTERSON, administrator of the estate of Eben'r Knight, dec'd, *vs.* BETHNEL PHELPS. } District court of the 7th judicial district, Sonoma county.

On motion of the attorney for the defendant, it is hereby
175 ordered that the above action be referred to Thompson Campbell, esq., of San Francisco, as sole referee, to hear the evidence and to decide all questions, and report a judgment in conformity and in accordance with the stipulation or agreement entered into between the attorneys for the respective parties in said action, which agreement it is ordered shall be filed in said action upon the making and filing his report in said action; and it is also ordered that the clerk of this court furnish to said referee the pleadings in this action.

(Signed) E. W. McKINSTRY,
District Judge.

STATE OF CALIFORNIA,
County of Sonoma, ss:

I, Frank W. Shattuck, clerk of said county and ex officio clerk of the district court of said county, do hereby certify that the foregoing is a true copy of a stipulation signed by John Currey, as attorney for defendant in the action in said court therein entitled, and by Sidney V. Smith, attorney for plaintiff in such action, and a true copy of the order of E. W. McKinstry, district judge, endorsed on said stipulation, which stipulation appears by an endorsement
176 thereon to have been filed in said action in said court on the third day of February, A. D. 1858; and I further certify that the written order last above this certificate written is a true copy of an order made and signed by E. W. McKinstry, district judge, and filed in said action in said court on the 29th day of October, A. D. 1856.

In witness whereof, I have hereunto set my hand and affixed the seal of said court at my office, in said county, the 21st day of November, A. D. 1859.

FRANK W. SHATTUCK, *Clerk*,
[SEAL.] By JAMES A. REYNOLDS, *Deputy*.

State of California, district court of the seventh judicial district, county of Sonoma.

CARLISLE P. PATTERSON, administrator of the estate of Ebenezer Knight, dec'd, *vs.* BETHNEL PHELPS. } Decree of foreclosure.—Judgment, February 4th, 1858.

177 This action having this day been brought on to be heard upon the complaint filed herein, and the general answer of the defendant, and upon the report of Thompson Campbell, esq'r., a referee duly appointed by the court, which report bears date the

30th day of January, 1858, and was made in pursuance of an order of this court, made in this action on the 26th day of September, 1856, referring it to the said Thompson Campbell to try and determine the issues in said action, and report thereon a judgment, as provided in a stipulation made in said cause on the 30th day of July, 1856—

On reading and filing the report of the referee named in the order of reference, by which report it appears that thirty thousand three hundred and seventy-three dollars and thirty-three cents was at the date of said report due to the plaintiff upon the mortgage set forth in said complaint; and on motion of F. A. Fabens, attorney for the plaintiff, it is hereby adjudged and decreed that the mortgaged premises described in the complaint in this action, as hereinafter set forth, or so much thereof as may be necessary, and may be sold separately without prejudice to the owner thereof, be sold at
178 public auction, in the county of Sonoma, by the sheriff of said county; that the said sheriff give public notice of the time and place of such sale, according to law and the practice of this court; that either or any of the parties to this action may purchase at such sale; that the said sheriff execute to the purchaser or purchasers a certificate of sale of the said premises; that out of the monies arising from such sale, after deducting the amount of his fees and expense on such sale, the said sheriff pay to the plaintiff, or his attorney, the sum of three hundred and twenty-two and $\frac{99}{100}$ dollars, adjudged to the plaintiff for costs and disbursements in this action, with interest from the date hereof, and also the amount so reported due as aforesaid, together with interest thereon, at the rate of five per cent. per month, from the date of the said report, or so much thereof as the purchase-money of the said mortgaged premises will pay of the same, and take a receipt therefor and file it with his report of sale, and that he bring the surplus monies arising from said sale, if any there be, into court without delay, to abide the further order of this
179 court; that he make a report of such sale and file it with the clerks of this court with all convenient speed; that if the proceeds of such sale be insufficient to pay the amount so reported due the plaintiff, with the interest and costs as aforesaid, the said sheriff specify the amount of such insufficiency in his report of sale, and that the defendant pay the same to the plaintiff, or that execution issue therefor.

And it is further adjudged and decreed that the defendant, and all persons claiming under him, be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said mortgaged premises so sold, or any part thereof.

And it is further adjudged and decreed that at the expiration of the time allowed by law for the redemption of the said mortgaged premises after the sale thereof, if no redemption shall have been previously made, the said sheriff do execute and deliver to the purchaser of said premises an absolute deed therefor.

The following is a description of said mortgaged premises: All that certain piece or parcel of land partly situated in the said
180 county of Sonoma, and partly in the county of Mendocino,

and known as the Rancho de Yocayo, containing eight leagues of land, more or less.

It is therefore ordered, adjudged, and decreed by the court, that the whole of the above mentioned and described property and real estate, with the appurtenances, or so much thereof as shall be sufficient to fully pay and satisfy the amount of said judgment against this defendant, Bethnel Phelps, and in favor of the said plaintiff, Carlisle P. Patterson, (adm'r of the estate of E. Knight,) with the interest thereon, shall be sold according to law, and the proceeds of said sale be applied to the payment and satisfaction of said judgment, with the interest thereon; and if the whole of said property shall not be sufficient to fully pay and satisfy said judgment and the costs of this action, that the plaintiff have execution against the defendant for the residue.

E. W. McKINSTRY,
Dist. Judge.

Whereupon judgment is this day, February 4th, A. D. 1858, duly entered up against the defendant, Bethnel Phelps, for the sum of thirty thousand six hundred and twenty-six and $\frac{44}{100}$
181 dollars, principal and interest, and three hundred and twenty and $\frac{90}{100}$ dollars, costs, said judgment to bear interest at the rate of five per cent. per month.

For which let execution issue.

Principal and interest	$30,626 44
Costs	322 90
	$30,949 30

WM. H. CROWELL, *Clerk.*

STATE OF CALIFORNIA,
County of Sonoma:

In the district court of the seventh judicial district.

To the sheriff of said county, greeting: You, the said sheriff of the county of Sonoma, are hereby commanded and required to proceed to notice for sale, and to sell, the premises hereinbefore described; to apply the proceeds of such sale to the satisfaction of said judgment, with the interest thereon and costs, together with your fees; and to make and file your report of such sale to the clerk of the said district court within sixty days from the date hereof, and to do all things according to the terms and requirements of the said
182 judgment, and the provisions of the statute in such case made and provided.

Witness the Hon. E. W. McKinstry, judge of the district court of the seventh judicial district of the State of California, and the seal of said court, this the 23rd day of February, A. D. 1859.

[SEAL.]

WM. H. CROWELL, *Clerk,*
By W. H. BOND, *Deputy Clerk.*

Note.—The following endorsements appear upon the back of the above instrument:

District court, seventh judicial district. Carlisle P. Patterson adm'r of the estate of Ebenezer Knight, dec'd, *vs.* Bethnel Phelps. Order of sale filed on return this thirtieth day of March, A. D. 1859.

WM. H. CROWELL, *Clerk*,
By W. H. BOND, *Deputy Clerk*.

STATE OF CALIFORNIA,
County of Sonoma:

In the district court of the seventh judicial district in and for the county of Sonoma.

CARLISLE P. PATTERSON, adm'r of the estate of Ebenezer Knight, dec'd,
vs.
BETHNEL PHELPS.

In pursuance and by virtue of a decree and judgment of the
183 court, made in the above-entitled action by the judge of said court, at a term of said court held in said county of Sonoma on the fourth day of February, in the year one thousand eight hundred and fifty-eight, by which it was, among other things, ordered, adjudged, and decreed that all and singular the mortgaged premises mentioned in the complaint in said action, and hereinafter described, or so much thereof as might be sufficient to raise the amount reported and adjudged due to the plaintiff as therein mentioned, for principal, interest, counsel fees, and costs in the action, and the expenses of sale, and which might be sold separately and without material injury to the parties interested, be sold at public auction, by or under the direction of the sheriff of the county where said mortgaged premises are situated; and that said sale be made in said county; and that said sheriff give public notice of the time and place of said sale, according to the course and practice of the court and the law relative to sales of real estate under execution; and that the plaintiff, or any of the parties to the suit, might become the purchaser at such sale; and that the sheriff, after the time allowed
184 by law for redemption has expired, execute a deed or deeds to the purchaser or purchasers of the mortgaged premises in said sale; and that the said sheriff, out of the proceeds of said sale, retain his fees, disbursements, and commissions on said sale, and pay the plaintiff, or his attorney, his cost in this suit, taxed at three hundred and twenty-two $\frac{90}{100}$ dollars, adjudged to the plaintiff for costs and disbursements in this action, with interest from the date hereof, and also the amount so reported due as aforesaid, together with interest thereon, at the rate of five per cent. per month, from the date of the said report, or so much thereof as the purchase-money of the said mortgaged premises will pay of the same, and take receipt therefor,

and file it with his report of sale, and that he bring the surplus monies arising from said sale, if any there be, into court without delay, to abide the further order of this court.

That he make a report of such sale and file it with the clerk of this court with all convenient speed; that if the proceeds of such sale be insufficient to pay the amount so reported due the plaintiff,
185 with the interest and costs as aforesaid, the said sheriff specify the amount of such insufficiency in his report of sale, and that the defendant pay the same to the plaintiff, or that execution issue therefor.

And it is further adjudged and decreed that the defendant, and all persons claiming under him, be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said mortgaged premises so sold, or any part thereof.

I, the subscriber, sheriff of said county of Sonoma, do hereby respectfully certify and report that, in pursuance and by virtue of the order and decree aforesaid, I advertised said premises to be sold by me, as sheriff of said county, in front of the court-house door in the town of Santa Rosa, in Sonoma county, State of California, on the twenty-fifth day of March, the year one thousand eight hundred and fifty-nine. That previous to said sale I caused notice thereof to be publicly advertised in a newspaper published at Santa Rosa, in said county, called "The Sonoma County Democrat," for four weeks successively immediately before said day of sale as follows, viz:
186 on the third day of March, and the tenth day of March, and the seventeenth day of March, and the twenty-fourth day of March, in the year aforesaid, and by posting up notices of such sale, and the time and place thereof, in the manner and for the length of time required by this decree and the practice of this court, and by the statute in such cases made and provided, which notice contained a description of said mortgaged premises.

And I further report and certify that on the said twenty-fifth day of March, in the year one thousand eight hundred and fifty-nine, the day on which the said premises were so advertised to be sold, as aforesaid, at twelve o'clock at noon of that day, I attend at the place fixed for said sale, and exposed at public auction said premises for sale to the highest bidder; and the said premises were then and there fairly struck off and sold to S. C. Hastings, to whom the judgment and decree in the above-entitled case has been duly assigned at the sum of thirty thousand dollars, he being the highest bidder therefor, and that being the highest sum bidden for the same.
187 And I do hereby further certify and report that I have executed and filled the usual certificate of sale for said premises, and also executed and delivered to said Hastings a duplicate of such certificate, and have disposed of the purchase-money or proceeds of said sale, as follows, viz: I have paid the printer's bill, for advertising said premises for sale as aforesaid, the sum of sixteen dollars; I have also retained in my hands two hundred and fifty-five dollars and sixty cents, being the amount of my fees, commissions, and disbursements on said sale, as will appear by reference to the

statement of items thereof annexed to this my report; and I have paid to the assignee the sum of thirty thousand dollars, less two hundred and fifty-five and $\frac{60}{100}$ dollars, and have taken a receipt therefor, which is hereto annexed.

And I further certify that, on the day of the sale of said premises, the sum due from the defendant, Bethnel Phelps, to the assignee, as reported and adjudged on the thirtieth day of January, in the year one thousand eight hundred and fifty-eight, together with interest thereon, at five per cent. per month, in the manner before
188 mentioned, and the costs taxed in said action, amounted to the sum of fifty-two thousand thirteen and $\frac{40}{100}$ dollars; and that after deducting therefrom the sum of twenty-nine thousand seven hundred and forty-four and $\frac{40}{100}$ dollars paid to assignee by me, as aforesaid, there remained a balance due of twenty-two thousand six hundred and ninety dollars, with interest, as aforesaid, due from said defendant, Phelps, to said assignee.

And I do further certify and report that the premises so sold, as aforesaid, were described in said decretal order, and in the advertisement or notice of sale aforesaid, as follows, to wit:

All that certain piece or parcel of land partly situated in the said county of Sonoma, and partly in the county of Mendocino, and known as the Rancho de Yocayo, containing eight leagues of land, more or less, with the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, rents, issues, and profits thereof, and all the estate, right, title, interest, and claim and demand whatsoever, as well in law as in equity, which said plaintiff, at the date of said mort-
189 gage set forth and described in the complaint of this action, had or held in and to said property and premises, and every part and parcel thereof, with the appurtenances.

Dated at Santa Rosa, March 26th, 1859.

E. L. GREEN,
Sheriff of Sonoma County,
By A. B. NALLEY, *Und'r Sh'ff.*

In the district court of the seventh judicial district of the State of California, in and for the county of Sonoma.

CARLISLE P. PATTERSON,
adm'r of the estate Ebenezer Knight, dec'd,
vs.
BETHNEL PHELPS.

Statement of sheriff for commissions and disbursements on the sale referred to in the preceding report.

Printer's fees for publishing notices of sale of mortgaged premises	$16 00
Expenses of sale, disbursements, fees, and commissions	239 60
Amount in the aggregate	255 60

Given under my hand, at Santa Rosa, Sonoma county, March 26th, 1859.

E. L. GREEN,
Sheriff of Sonoma County,
By A. B. NALLY, *Und. Sh'ff.*

Received of E. L. Green, sheriff of Sonoma county, by A.
190 B. Nally, under sheriff, thirty thousand dollars, less $255 60 percentage costs, and clerk's accruing costs, being the amount of sale under order and decree of court in the case of Carlisle P. Patterson, administrator of Ebenezer Knight, dec'd, vs. Bethnel Phelps, on foreclosure of mortgage on Yocayo Rancho.

J. TEMPLE,
Att'y for S. C. Hastings, assignee of said judgment and decree.
SANTA ROSA, *March 25th,* 1859.

In the district court of the seventh judicial district, in and for Sonoma county and State of California.

CARLISLE P. PATTERSON,
adm'r of the estate of Ebenezer Knight, dec'd,
vs.
BETHNEL PHELPS.

On reading and duly considering the report of E. L. Green, the sheriff of said county, filed in this action of the sale of the mortgaged property and premises mentioned and described in the decree made in said action, and, on motion of the attorney and counsel for said plaintiff, it is ordered that the said report be in all things confirmed.
191 And it appearing from said report that the mortaged property and premises were sold by said sheriff, as ordered and directed in and by said decree, for the sum of thirty thousand dollars; and that after the expense of said sale, and the fees, disbursements, and commissions, which accrued by reason thereof, were paid out of the sum of money last mentioned, and after application of the remainder of such sum was made towards the satisfaction of the amount reported due from the defendant, Bethnel Phelps, to the plaintiff, Carlisle P. Patterson, adm'r, &c., and by said decree determined to be due the plaintiff from said defendant, there remained a deficiency of the amount due the plaintiff from said defendant, Phelps, in the sum of twenty two thousand six hundred and ninety dollars; and it appearing that such last-mentioned sum of money still remains due by said decree to the plaintiff, and that the defendant, Bethnel Phelps, is liable to the plaintiff therefor, with interest thereon, at the rate of five per cent. per month, from the twenty-fifth day of March, A. D. one thousand eight hundred and fifty-nine, the day of the sale made by said sheriff:
192 It is therefore ordered and decreed that said plaintiff have execution against the property of the defendant, Bethnel Phelps, for the said balance or deficiency of twenty-two thousand six hundred and ninety dollars, with interest thereon, at the rate five

per cent per month, from the twenty-fifth day of March, A. D. one thousand eight hundred and fifty-nine, and for such further interest as shall accrue thereon at the rate aforesaid,

Given under my hand in open court, at the court-house in the county of Sonoma, the 21st day of October, in the year one thousand eight hundred and fifty-nine.

E. W. McKINSTRY,
Dist. Judge.

Whereupon judgment is this 21st day of October, A. D. 1859, duly entered up as above mentioned for the sum of twenty-two thousand six hundred and ninety dollars, with interest thereon, at the rate of five per cent per month, from the twenty-fifth day of March, A. D. 1859, and for such further interest as shall accrue thereon at the rate aforesaid.

193 Entered at Santa Rosa, this 21st day of October, A. D. 1859.

FRANK W. SHATTUCK, *Clerk.*

STATE OF CALIFORNIA,
County of Sonoma:

I, Frank W. Shattuck, county clerk of said Sonoma county, and ex officio clerk of the said district court, do hereby certify that the above and foregoing is a true, full, and correct copy of the decree of foreclosure and judgment, order of sale, sheriff's return of sale, and order of court confirming said sale and decree and judgment for balance remaining due in the above-entitled cause now on file and of record in my office.

In witness whereof, I have hereunto set my hand and affixed the [SEAL.] seal of the said district court, this 4th day of November, A. D. 1859.

FRANK W. SHATTUCK, *Clerk.*

Endorsed: Filed January 4, 1862.

W. H. CHEVERS, *Clerk.*

194 *Deed from Green to S. C. Hastings.*

This indenture, made and executed this thirtieth day of September, A. D. 1859, by Edward L. Green, sheriff of the county of Sonoma, in the State of California, witnesseth: That whereas, in and by a certain order of sale issued out of the seventh judicial district court of the said State of California, in the action of Carlisle P. Patterson, administrator of the estate of Ebenezer Knight, deceased, against Bethnel Phelps, duly attested the 23d day of February, A. D. 1859, and to me, as such sheriff, duly directed and delivered, I was commanded to sell the property hereinafter described, at public auction according to law, and to apply the proceeds of such sale towards the satisfaction of the judgment in said action, amounting to the sum of thirty thousand six hundred and twenty-six $\frac{44}{100}$ dollars, and the interest thereon, and costs of suit and expenses of sale, as by the said order of sale, reference being thereunto had,

more fully appears; that whereas, in pursuance of said order of sale, I did duly levy on, and on the 25th day of March, A. D. 1859,
195 at 12 o'clock noon, at the court-house door, in the town of Santa Rosa, in said State, I did duly sell the premises hereinafter described, at public auction, according to law, to S. Clinton Hastings, who was the highest bidder therefor, for the sum of thirty thousand (30,000) dollars, which was the whole price paid by him for the same, I having first given due notice of the said sale by the publication of the said time and place thereof, and of the description of said property, hereinafter set forth, once in each week, for twenty-one days, in the Sonoma County Democrat, a newspaper published in said county, and posting copies of such notice and description daily, for the same period, in three public places of the said county of Sonoma; and whereas the time allowed by law for the redemption of said property has expired without such redemption been made: Now, therefore, I, the said Edward L. Green, sheriff of said county of Sonoma, in pursuance of the said order of sale, and of the statute in such case made and provided, and for and in consideration of the payment to me of the said sum of thirty thousand (30,000) dollars, so bid as aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, conveyed, and confirmed, and by these presents do grant, bargain, sell, convey, and confirm, unto the said S. Clinton Hastings, his heirs and assigns, the real estate in said order of sale described as follows, to wit: all that certain piece or parcel of land situated in the counties of Sonoma and Mendocino, and known as the Rancho Yocayo, containing eight leagues of land, more or less, with the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, rents, issues, and profits thereof, and all the estate, right, title, interest, and claim and demand whatsoever, as well in law as in equity, of him, the said Bethnel Phelps, and further described as the formerly called "Yokayo," and bounded on the south by the rancho of Wm. Fernando Feliz, and on the northeast, and west by the country inhabited by the unchristianized Indians, and containing eight (8) leagues of land, more or less. To have and to hold the same unto the said S. Clinton Hastings, his heirs and assigns forever.

197 In witness whereof, I, the said sheriff, have hereunto set my hand and affixed my seal, the day and year first above written.

EDWARD L. GREEN, [SEAL.]
Sheriff of Sonoma County, in the State of California.

Signed, sealed, and delivered in presence of—
WM. NEELY JOHNSON.

STATE OF CALIFORNIA,
County of Sonoma, ss:

On this thirtieth day of September, A. D. one thousand eight hundred and fifty-nine, before me, John Brown, a notary public, in and for said county, personally appeared Edward L. Green, sheriff of the

said county of Sonoma, to me personally known to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

[SEAL.] In witness whereof, I have hereunto set my hand and affixed my seal, the day and year first above written.

JOHN BROWN, *Notary Public.*

198 Endorsed: Dated September 30th, 1859.

Received for record October 3d, 1859, at 8 o'clock a. m.

G. CANNING SMITH, *Recorder.*

Recorded October 3d, 1859, at 8 o'clock a. m., in Deeds No. 1, pages 29 and 30, at request of S. Clinton Hastings.

G. CANNING SMITH, *Recorder.*

Filed January 4, 1862.

W. H. CHEVERS, *Clerk.*

Deed from Phelps to Hastings.

This indenture made the fourth day of November, in the year one thousand eight hundred and fifty-nine, between Bethnel Phelps, of San Francisco, in the State of California, of the first part, and S. Clinton Hastings, of Benicia, in the county of Solano, in said State, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of one thousand dollars, lawful money of the United States of America, to him in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged,
199 has granted, bargained, sold, and conveyed, and by these presents, does grant, bargain, sell and convey, unto the said party of the second part, and to his heirs and assigns forever, all the right, title, interest, and estate which the said party of the first part now has, either at law or in equity, in and to all that certain tract of land situated on Russian river, Mendocino county, and State of California, containing eight square leagues of land, and known as the Yokiah ranch, according to its natural and artificial boundaries; granted to one Cayitano Juarez, by Pio Pico, acting governor of California, by a grant dated May 24th, A. D. 1845.

Together with all and singular the right, title, and interest of the said party of the first part, in and to the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and
200 to the above-described premises, and every part and parcel thereof, with the appurtenances.

To have and to hold, all and singular, the said right, title, and interest of the said party of the first part, in and to the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

But it is expressly agreed and understood, by and between the parties hereto, that this indenture is made and taken without any covenant or warranty, either express or implied.

In witness whereof, the said party of the first part has hereunto set his hand and seal, the day and year first above written.

BETHNEL PHELPS. [SEAL.]

Signed, sealed, and delivered in presence of—
C. W. HAYDEN.

STATE OF CALIFORNIA,
County of Solano:

On this fourth day of November, A. D. one thousand eight
201 hundred and fifty-nine, before me, C. W. Hayden, a notary public in and for said Solano county, duly commissioned and sworn, personally appeared the within-named Bethnel Phelps, whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the individual described in and who executed the said annexed instrument, and acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and
[SEAL.] affixed my official seal, the day and year in this certificate first above written.

C. W. HAYDEN, *Notary Public.*

Endorsed: Received for record November 10, 1859, at 5 o'clock p. m.

G. CANNING SMITH, *Recorder.*

Recorded November 10, 1859, at 5 o'clock p. m., in Deeds No. 1, page 35.

G. CANNING SMITH, *Recorder.*

Filed Jan'y 4, 1862.

W. H. CHEVERS, *Clerk.*

202 *Deed from Hastings to John Curry*

This indenture, made the seventh day of November, in the year of our Lord one thousand eight hundred and fifty-nine, between S. Clinton Hastings, of Benicia, in Solano county and State of California, of the first part, and John Currey, of the same place, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of ten thousand dollars, lawful money of of the United States of America, to him in hand paid by the said party of the second part before the ensealing and delivery of these

presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, and conveyed, and by these presents does grant, bargain, sell, alien, and convey, unto the said party of the second part, and to his heirs and assigns forever, all the equal undivided half part of all that certain piece, parcel, and tract of land situate and being in the county of Mendocino, and known as the Rancho "Yokayo," containing eight leagues of land, more or less, and further described as the place formerly called "Yokaya," and bounded on the south by the rancho of Don Fernando Feliz, and on the north, east, and west by the country inhabited by the un-
203 christianized Indians, and containing eight leagues of land, more or less; the same being the tract of rancho of land heretofore sold and conveyed by Edward L. Green, sheriff of Sonoma county, in said State, to the said S. Clinton Hastings, as appears by a deed duly executed by said sheriff to said Hastings, bearing date the thirtieth day of September, in the year aforesaid, and recorded on the third day of October, in said year, in Book No. 1 of Deeds, on pages 29 and 30, of the records of said Mendocino county, in said State. Together with all and singular the one undivided half part of the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and also the one undivided half of all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to said undivided half of the above-described tract of land and premises, and every part and parcel thereof, with the appurtenances; subject, however, to no covenant of warranty, express or implied. To have and
204 to hold all and singular the one undivided half of the above mentioned and described land and premises and appurtenances unto the said party of the second part, his heirs and assigns forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

S. CLINTON HASTINGS. [SEAL.]

Signed, sealed, and delivered in the presence of—
P. B. JOHNSON.

STATE OF CALIFORNIA,
County of Solano:

On this seventh day of November, A. D. one thousand eight hundred and fifty-nine, before me, C. W. Hayden, a notary public in and for said Solano county, duly commissioned and sworn, personally appeared the within-named S. Clinton Hastings, whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the individual described in and who executed the said annexed instrument, and duly acknowledged to me that
205 he executed the same freely and voluntarily and for the uses and purposes therein mentioned.

[SEAL.] In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

C. W. HAYDEN,
Notary Public.

Endorsed: Received for record November 10, 1859, at 5 o'clock p. m.

G. CANNING SMITH, *Recorder.*

Recorded November 10, 1859, at 5 o'clock p. m., in Deeds No. 1, page 36.

G. CANNING SMITH, *Recorder.*

Filed January 4, 1862.

W. H. CHEVERS, *Clerk.*

206 *Opinion confirming claim.*

U. S. district court, nor. dist. of Cal.

THE UNITED STATES *vs.* CAYETANO JUAREZ. } No. 217.—"Yokaya," Nov. 19, 1862.

The espediente in this case shows that on the 8th April, 1845, Cayetano Juarez petitioned Gov. Pio Pico for "eight square leagues, more or less, in the land known as "Yokaya," to the northwest of Sonoma, distant thirty leagues, and bounded by citizen Fernando Feliz on the south, and on the other sides by the unchristianized Indians."

The petition was accompanied by a map representing the land solicited, and by a certificate of Gen. Vallejo that the land was vacant and did not belong to any private person. On the margin of this petition is a decree of the gov., dated May 24, 1845, which is as follows:

"That which the interested party requires is granted to him, and for that purpose let the corresponding title be issued. The governor of the department thus decreed, ordered and signed.

"PIO PICO."

To this petition a note is added, which, however, is not
207 signed, stating that a note of the title has been made in the respective book.

To this note succeeds a memorandum, dated May 8th, 1846, stating that the espediente was on that day reported to the most excellent departmental assembly and ordered to be passed to the committee on vacant lands. This memorandum is signed by Pio Pico, president, and Agustin Olveira, secretary.

The report of the committee follows. It is dated May 26, 1846, and contains a proposition for the approval of the grant.

On the third of June, 1846, the proposition of the committee is adopted by the assembly.

The genuineness of this espediente, and of the signatures to the documents which compose it, is unquestioned. It is found amongst the records of the former government duly numbered, and it is entered on the index made by Messrs. Hartnell and Halleck in continuation of Jimeno's index. The marginal order directing that a title be issued is in the handwriting of Juan Bandini, who was at that time secretary of state. The signature of Pio Pico to the order is undoubtedly genuine.

208 The order referring the espediente to the committee on vacant lands is in the handwriting of Cayetano Arenas, who often wrote in the office of the departmental assembly and of the secretary of state, and it is signed with the genuine signatures of Pico, the president of the assembly, of Olviera, the secretary.

The report of the committee is in the handwriting of and signed by Santiago Arguello, its chairman, and the entry of the approval is in the handwriting of Cayetano Arenas.

There is also found in the archives, among the borradors, or rough drafts of orders made by the governor in the month of May, 1845, an entry in the handwriting of Narciso Botello, (who was one of the clerks in the office of the secretary of state,) of the decree made on the petition of Juarez. It is a literal copy of the decree in the margin of the petition, and across it a line is drawn as a check to show that the order had been entered in the proper book.

This book, commonly known as the book of Toma de Razon, is also found in the archives. It contains, under date of May 24, 1845, a note, in the usual form, that a title grant was made to Caye-

209 tano Juarez of the place known as Yokaya. On recurring to the journals of the departmental assembly, we find the proceedings of that body with respect to the grant recorded precisely as in the testimonio or certificate of approval contained in the espediente.

There is thus produced, in support of this claim, all the evidence which the records of the Mexican government could in any case afford, with the single exception that the expediente does not contain, as is usual, the unsigned borrador or copy of the titulo delivered to the party.

The existence of the expediente in the archives, with its numerous signatures and handwritings of unquestionable genuineness; the note and description of the grant in the continuation of Jimeno's index; the entry in the toma de razon; and the record in the journals of the departmental assembly, prove, beyond all doubt, that a grant was made on the 24th of May, 1845, to Cayetano Juarez, for eight leagues, in the place called "Yokaya."

There is also produced the titulo alleged to have been delivered to the claimant. But the signatures to this document present

210 a most suspicious appearance. That of Pio Pico is very unlike his genuine signature at the date of the instrument. The handwriting, too, of the body of the instrument is that of Victor

Prudon, by whom the grant produced in the case of G. L. Brown *v.* the United States was written, and which is undeniably fraudulent.

The character of the signatures, and the whole appearance of the document, justifies the conclusion that it is not genuine.

But that the grant was made, is, as we have seen, clearly proved by evidence the most reliable that is afforded in this class of cases, viz: the official records of the former government.

The fact that the document produced by the party is forged is readily explained by supposing that the grant issued to him has been lost, and that he has been tempted to manufacture another of the same import, to replace it. Ignorant, and not scrupulous, alarmed lest the absence of his title-papers should be fatal to his claim, it is perhaps not to be wondered at that he has accepted the offer
211 of Prudon to supply the missing document—a service which it is well known that person liberally rendered, even in cases where no grant had ever been obtained from the former government. By whom this fraud was procured to be committed cannot now be ascertained. It was certainly not done by those who now represent the rights of the original grantee, nor is it probable that the original grantee was concerned in it; for it appears that Juarez had conveyed his entire interest in the grant to M. G. Vallejo before the claim was presented to the board.

Rejecting, then, the title-paper produced by the claimants as not genuine, there still remains the most clear and indubitable proof that a grant in fact issued to Juarez for the land now claimed, and that this grant was approved by the departmental assembly, and thus became "definitely valid."

It was, therefore, private and not public land at the date of the acquisition of the country, and, on the principles laid down by the Supreme Court, in the case of the heirs of Marcos West, (22 How., p. 315,) the title must be confirmed to the representatives of
212 the claimant, unless it has been forfeited by abandonment or neglect to fulfill the conditions.

With respect to the occupation and settlement effected by Juarez, there is some conflict of testimony.

It is proved, however, beyond any reasonable doubt, that at about the time he applied for the grant, Juarez sent his brother to the land with cattle and horses to establish a rancho. Vicente Juarez remained upon the land about five months, when he left, but, returning after a short absence, contiued to reside there until a party under Frémont, in the early part of 1846, carried off the horses.

Vicente Juarez states that while he was on the rancho he built two corrals and a small house on the bank of the river. Houses were also put up for the Indians employed on the rancho. When he first went to establish the rancho, Cayetano Juarez accompanied him, and remained about eight days, leaving Vicente in charge. He again visited the rancho towards the end of 1845, and again in 1848. After the horses were carried away by Frémont, he came up to look
213 after the cattle. After remaining a few days, he returned to

Napa, leaving two vaqueros and Indians on the rancho. They staid about a month, when they returned to Napa.

No more cattle appear to have been placed on the rancho, but it is stated by Vicente that Indians left there during the years 1847 and 1848, and that he went to the rancho in those years to carry beeves to them. They occasionally came to Napa to work for Cayetano, but returned to Tokaya, where they continued to work the fields established by Vicente, planting corn, melons, and beans, with seed which Cayetano furnished, to keep them occupied, and to keep up the possession of the place.

The testimony of Vicente Juarez is corroborated by Julio Carillo, who states that he visited the rancho in June or July, 1845. He found Vicente residing on the rancho, with some civilized Indians, one of whom he recognized as having lived with Cayetano at Napa, and whose name he gives. Vicente had a small house, corrals, horses, and cattle, on the land.

Jesse Beasley, a witness on behalf of the United States, testifies that he accompanied Carrillo on this excursion to Yokaya in 1845,
but that he did not see Vicente Juarez there, nor any cattle,
214 horses, or houses, on the land, nor any signs of its occupation.
When asked as to the character of Carrillo, however, he says that "it is as good as any man's in the county where he lives. He has a high character, and is an honest, upright gentleman; but in this instance, one or the other of us is mistaken." If this estimate of Carrillo's character be correct, (and it is not questioned,) there is little difficulty in deciding which of the two is mistaken. Carrillo testifies that he went to Yokaya in 1844, before the establishment of the rancho; and again in 1845, when Vicente was in the occupation of it, as has been stated. Independently, therefore, of the impossibility of his having made any honest mistake as to the circumstances detailed by him with so much particularity, it is most probable that Beasley is mistaken as to the year in which he went there himself, and that he accompanied Carrillo on the excursion of 1844, and not on that of 1845.

The testimony of Barnett, a witness for the United States, is inconclusive. He merely states that he never heard of Cayetano
215 Juarez having sent stock to Yokaya, or that Frémont's party, of which he was one, took horses from that rancho. He admits, however, that the men told him they had obtained some horses from Cayetano—from what rancho he evidently does not know, for he could not have been with the party when the horses were procured, as he learned the fact from the statements of his companions.

An attempt was made to show that stock could not have been sent there, as the witness lived on the road, and did not see them pass. But it appears that the other road, which was the best and most traveled, was at the distance of more than twenty miles from the residence of the witness.

The evidence of Carrillo and Juarez is further corroborated by that of William B. Frazer. This witness states that he was on the Yokaya rancho in 1845, and again in March, 1846. He found there a Span-

iard named Juarez. There was a house and two places fenced, one a corral, and the other had the appearance of a garden. The garden had some stalks of corn and indications of melon vines. There were horses and cattle on the land. The witness staid there all night,
216 and Juarez seemed to be living there with some Indian vaqueros. This was in December, 1845.

In 1846 he did not stop, but saw horses and cattle, and the same houses he had seen in 1845; also a number of Indian huts on the plain. The witness further states, on cross-examination, that he was told of the rancho of Juarez in Yokayo valley, before going there, by several persons, whom he names, at Bodeya, and that the valley was generally known by that name by the people residing about Bodeya and Sonoma.

The above is all the testimony of any importance relating to the occupation of the land. The statements of Vicente Juarez are, it will be noticed, corroborated by the testimony of two other witnesses, who swear to facts about which they cannot have been mistaken. Their characters are unimpeached, and I know of no reason for distrusting the statements of either Vicente Juarez or Carrillo, neither of whom belong to that class of professional witnesses with whom the court is familiar, or for refusing to accept as accurate the estimate of Carrillo's character given by Beasley.

It does not appear that since the occupation of California by
217 the American forces any serious attempt has been made by the grantee to resume the occupation and cultivation of the land.

But under the ruling in the case of the United States *v.* Frémont, no neglect can, on that account, be charged to the grantee, as a ground of forfeiture. After that event, "he could do nothing," says the Supreme Court, "which could in any degree affect the rights of the United States to the public property," and it has, in several cases, been clearly intimated, if not expressly declared, by that tribunal, that the rights to be passed upon in these cases are those which existed at the time of the acquisition of the country. The forfeiture by abandonment must, therefore, have accrued, if at all, before California was subjected to the American arms—and rights of the United States or the claimant to the land remained in their then condition, unaffected by any acts or omissions of the grantee.

If the testimony in this case is to be believed, (and I see no reason to doubt it,) there certainly had been no abandonment of his rights by the grantee during the existence of the former government,
218 even if a forfeiture for that cause could now be enforced in the case of a grant made "*definitively valid*" by the approval of the departmental assembly, a point not yet decided by the Supreme Court, and any subsequent neglect or delays are, as decided by that court, immaterial.

It is urged that the description of the land is so vague that it cannot be identified.

But it appears by the testimony of James Tobin that the valley of Yokaya is a clearly defined piece of land, lying along the Russian river, and bounded on the east, west, and south, by mountains. The

southern boundary of the valley is the northern boundary of the rancho of Fernando Feliz, which we have seen is mentioned in the petition as the southern boundary of the tract solicited. Mr. Tobin adds that the map, though not perfect, is nevertheless sufficient to enable him to identify the tract represented on it as the Yokaya valley, described by him.

My own knowledge of the country leads me to the same opinion, and a surveyor required to measure off eight square leagues of
219 land in the Yokaya valley, north of the Feliz rancho, would, I am persuaded, have no difficulty in determining its limits with as much precision as is usual in this class of cases.

On the whole, my opinion is, that the grant having been undoubtedly made by the former government, the grantee's rights have not been forfeited, and the claim must be confirmed.

Endorsed: Filed November 19, 1862.

W. H CHEVERS, *Clerk.*

Decree of confirmation.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Friday, the 17th day of April, in the year of our Lord one thousand eight hundred and sixty-
220 three.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES *v.* CAYETANO JUAREZ. } L. C. No. 335. D. C. No. 217.

This cause came on this day to be heard, and was argued by counsel, and thereupon, and in consideration thereof, it was ordered, adjudged, and decreed as follows, viz: that the decision of the land commission be, and the same is hereby, reversed and set aside. And it is further ordered, adjudged, and decreed that the claim of the said Cayetano Juarez is a good and valid claim, and that the same be, and is hereby, confirmed to him.

The land of which confirmation is hereby made is known by the name of "Yokaya," and is situated in the county of Mendocino, to the northwest of Sonoma, and bounded by the lands of Fernando Feliz, and on all other sides by the unchristianized tribes, containing eight square leagues of land, and being the same land described in the grant and delineated on the diseño accompanying the same, copies of which are contained in the record on file in this cause, to which grant and diseño, and to the espediente, reference is made for
221 more particular description of the land hereby confirmed to the said Cayetano Juarez.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed April 17, 1863.

W. H. CHEVERS, *Clerk.*

Order granting appeal to Sup. Court in behalf of U. S.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Friday, the first day of May, in the year of our Lord one thousand eight hundred and sixty-three.

Present : The honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
CAYETANO JUAREZ. } No. 217.

And now, at this day, on application of Wm. H. Sharp, esq., U. S. attorney, it is ordered that an appeal in behalf of the Uni-
222 ted States from the decision of this court, confirming the claim of the said Cayetano Juarez, rendered at the present term, be, and the same hereby is, granted; and that a certified transcript of the record in said cause be sent to the Supreme Court of the United States without delay.

Endorsed : Filed May 1st, 1863.

W. H. CHEVERS, *Clerk.*

223 I, William H. Sharp, district attorney of the United States for the northern district of California, by virtue of the power vested in me by law, to wit, under the act of the Congress of the United States, entitled "An act relative to appeals to the Supreme Court of the United States," approved August 6, 1861, do hereby certify that the annexed and foregoing (222) two hundred and twenty-two consecutively numbered pages exhibit a full, true, and correct transcript of the record and proceedings in the case of the United States *v.* Cayetano Juarez, and numbered 217 in the register of land cases in the district court of the United States for the northern district of California; and that the original papers from which the said transcript has been made were duly delivered to me by the clerk of said district court, at my request, for the purpose of having them transcribed—and the same are of record and on file in the clerk's office of said district court.

In testimony whereof, I have hereunto set my hand and
[SEAL.] private seal, at San Francisco, in the district aforesaid, this first day of May, A. D. 1863, and of our independence the 87th.

WM. H. SHARP,
U. S. Att'y, Northern Dist. of Cal'a.

Filed May 26, 1863.